American Professional Society on the Abuse of Children

CENTER FOR CHILD POLICY

REPORTING CHILD MALTREATMENT

DIGEST OF STATE LAWS - UNITED STATES OF AMERICA

CURRENT THROUGH APRIL 2018

Prepared by the APSAC Center for Child Policy
Child Maltreatment Reporting Law Committee

Compiled by Kelli Nicole Hughes, JD
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§ 26-14-2. Purpose of chapter.
Ala. Code § 26-14-2

In order to protect children whose health and welfare may be adversely affected through abuse and neglect, the Legislature hereby provides for the reporting of such cases to the appropriate authorities. It is the intent of the Legislature that, as a result of such efforts, and through the cooperation of state, county, local agencies and divisions of government, protective services shall be made available in an effort to prevent further abuses and neglect, to safeguard and enforce the general welfare of such children, and to encourage cooperation among the states in dealing with the problems of child abuse.

Ala. Code § 26-14-3

(a) All hospitals, clinics, sanitariums, doctors, physicians, surgeons, medical examiners, coroners, dentists, osteopaths, optometrists, chiropractors, podiatrists, physical therapists, nurses, public and private K-12 employees, school teachers and officials, peace officers, law enforcement officials, pharmacists, social workers, day care workers or employees, mental health professionals, employees of public and private institutions of postsecondary and higher education, members of the clergy as defined in Rule 505 of the Alabama Rules of Evidence, or any other person called upon to render aid or medical assistance to any child, when the child is known or suspected to be a victim of child abuse or neglect, shall be required to report orally, either by telephone or direct communication immediately, and shall be followed by a written report, to a duly constituted authority.

(b)

(1) When an initial report is made to a law enforcement official, the official subsequently shall inform the Department of Human Resources of the report so that the department can carry out its responsibility to provide protective services when deemed appropriate to the respective child or children.
(2) As soon as is practicable after a report of known or suspected child abuse or neglect is made, the Department of Human Resources shall make efforts to determine the military status of the parent or guardian of the child who is the subject of the child abuse or neglect allegation.
(3) If the Department of Human Resources determines that a parent or guardian under subdivision (2) is in the military, the department shall notify a United States Department of Defense family advocacy program at the military installation of the parent or guardian that there is an allegation of child abuse or neglect that is being investigated that involves a child of the military parent or guardian.

(c) When the Department of Human Resources receives initial reports of suspected abuse or neglect, as defined in Section 26-14-1, including suspected abuse or neglect involving discipline or corporal punishment committed in a public or private school or suspected abuse or neglect in a state-operated child residential facility, the Department of Human Resources shall transmit a copy of school reports to the law enforcement agency and residential facility reports to the law enforcement agency and the operating state agency which shall conduct the investigation. When the investigation is completed, a written report of the completed investigation shall contain the information required by the state Department of Human Resources which shall be submitted by the law enforcement agency or the state agency to the county department of human resources for entry into the state's central registry.

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

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

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

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

§ 26-14-4. Permissive reporting.
Ala. Code § 26-14-4

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

§ 26-14-5. Contents of reports.
Ala. Code § 26-14-5

The reports provided for in this chapter shall state, if known, the name of the child, his or her whereabouts, the names and addresses of the parents, guardian, or caretaker, and the character and extent of his or her injuries. The written report shall also contain, if known, any evidence of previous injuries to the child and any other pertinent information which might establish the cause of such injury or injuries, and the identity of the person or persons responsible for the same.

§ 26-14-6.1. Duties and responsibilities for investigation of reports.
Ala. Code § 26-14-6.1

The duty and responsibility for the investigation of reports of suspected child abuse or neglect shall be as follows:

(1) Reports of suspected child abuse or neglect involving disciplinary or corporal punishment committed in a public or private school or kindergarten shall be investigated by law enforcement agencies.
(2) Reports of suspected child abuse or neglect committed in a state-operated child residential facility shall be investigated by law enforcement agencies.
(3) All other reports of suspected child abuse and neglect shall be investigated by the Department of Human Resources.

Ala. Code § 26-14-8

(a) For the purposes of this section, the following words shall have the following meanings, respectively:

(1) INDICATED. When credible evidence and professional judgment substantiates that an alleged perpetrator is responsible for child abuse or neglect.
(2) NOT INDICATED. When credible evidence and professional judgment does not substantiate that an alleged perpetrator is responsible for child abuse or neglect.

(b) The Department of Human Resources shall establish a statewide central registry for reports of child abuse and neglect made pursuant to this chapter. The central registry shall contain, but shall not be limited to:
(1) All information in the written report;
(2) Record of the final disposition of the report, including services offered and services accepted;
(3) The names and identifying data, dates, and circumstances of any persons requesting or receiving information from the registry; provided, however, that requests for information and responses where no report exists may be destroyed after three years from the date of the request;
(4) The plan for rehabilitative treatment; and
(5) Any other information which might be helpful in furthering the purposes of this chapter.

(c) The Department of Human Resources shall establish and enforce reasonable rules and regulations governing the custody, use, and preservation of the reports and records of child abuse and neglect. Child abuse and neglect reports and records shall be limited to the purposes for which they are furnished and by the provisions of law under which they may be furnished. The reports and records of child abuse and neglect and related information or testimony shall be confidential, and shall not be used or disclosed for any purposes other than:

(1) To permit their use to prevent or to discover abuse or neglect of children through the information contained therein, except reports or records in cases determined to be “not indicated” shall not be used or disclosed for purposes of employment or other background checks; or
(2) For investigation of child abuse or neglect by the police or other law enforcement agency; or
(3) For use by a grand jury upon its determination that access to such reports and records is necessary in the conduct of its official business; or
(4) For use by a court where it finds that such information is necessary for the determination of an issue before the court; or
(5) For use by any person engaged in bona fide research who is authorized to have access to such information by the Commissioner of the Department of Human Resources; or
(6) For use by any person authorized by a court to act as a representative for an abused or neglected child who is the subject of a report; or
(7) For use by a physician who has before him a child whom he reasonably suspects may be abused or neglected; or
(8) For use by an attorney or guardian ad litem in representing or defending a child or its parents or guardians in a court proceeding related to abuse or neglect of the child; or
(9) For use by federal, state, or local governmental entities, social service agencies of another state, or any agent of such entities, having a need for the information in order to carry out their responsibilities under law to protect children from abuse and neglect; or
(10) For use by child abuse citizen review or quality assurance or multidisciplinary review panels; or
(11) For use by child fatality review panels; or
(12) For public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality; the term “near fatality” means an act that, as certified by a physician, places the child in serious or critical condition. Information identifying by name persons other than the victim shall not be disclosed.
(d) The names of persons or information in the investigative report placed on the state's central registry which may be made available to the alleged perpetrator's employer, prospective employer, or others are those cases that the Department of Human Resources or the investigative hearing officer has determined child abuse or neglect to be indicated.

(e) In the case of any child abuse or neglect investigation which is determined to be “not indicated,” the alleged perpetrator may request after five years from the completion of the investigation that his or her name be expunged from the central registry so long as the Department of Human Resources has received no further reports concerning the alleged perpetrator during the five years, at which time the department shall expunge the name.

(f) Nothing in this section shall be construed as restricting the ability of a department to refuse to disclose identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect, except that the department may not refuse such a disclosure in cases in which a court orders such disclosure after the court has reviewed, in camera, the record of the department related to the report or complaint and has determined that it has reason to believe that the person making the report knowingly made a false report.

(g) Any person receiving reports or records of child abuse or neglect or related information under this section shall maintain the confidentiality of the documents and information and not disclose it except as authorized by law.

(h) Any violation of the provision of confidentiality shall be a Class A misdemeanor.

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

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

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

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

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

Any person who shall knowingly fail to make the report required by this chapter shall be guilty of a misdemeanor and shall be punished by a sentence of not more than six months' imprisonment or a fine of not more than $500.00.
§ 47.17.010. Purpose.
Alaska Stat. § 47.17.010

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

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

§ 47.17.020. Persons required to report.
Alaska Stat. § 47.17.020

(a) The following persons who, in the performance of their occupational duties, their appointed duties under (8) of this subsection, or their volunteer duties under (9) of this subsection, have reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest office of the department:

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

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

(c) If the person making a report of harm under this section cannot reasonably contact the nearest office of the department and immediate action is necessary for the well-being of the child, the person shall make the report to a peace officer. The peace officer shall immediately take action to protect the child and shall, at the earliest opportunity, notify the nearest office of the department.
(d) This section does not require a religious healing practitioner to report as neglect of a child the failure to provide medical attention to the child if the child is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination.

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

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

(A) who caused the harm to the child; or
(B) whether the person who is believed to have caused the harm has responsibility for the child's welfare; or
(3) concludes that the report involves

(A) possible criminal conduct under AS 11.41.410 - 11.41.458; or
(B) abuse or neglect that results in the need for medical treatment of the child.

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

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

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

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

(j) This section does not require an athletic coach who is an unpaid volunteer to report child abuse or neglect under (a)(2) of this section unless the coach

(1) volunteers for more than

(A) four hours a week for four consecutive weeks; or
(B) 20 hours a week in a one-month period;
§ 47.17.022. Training.
Alaska Stat. § 47.17.022

(a) A person employed by the state or by a school district who is required under this chapter to report abuse or neglect of children shall receive training on the recognition and reporting of child abuse and neglect.
(b) Each department of the state and school district that employs persons required to report abuse or neglect of children shall provide
   (1) initial training required by this section to each new employee within 45 days after the first day of employment, and to any existing employee who has not received equivalent training; and
   (2) appropriate in-service training required by this section as determined by the department or school district.
(c) Each department and school district that must comply with (b) of this section shall develop a training curriculum that acquaints its employees with
   (1) laws relating to child abuse and neglect;
   (2) techniques for recognition and detection of child abuse and neglect;
   (3) agencies and organizations within the state that offer aid or shelter to victims and the families of victims of child abuse or neglect;
   (4) procedures for required notification of suspected abuse or neglect;
   (5) the role of a person required to report child abuse or neglect and the employing agency after the report has been made; and
   (6) a brief description of the manner in which cases of child abuse or neglect are investigated by the department and law enforcement agencies after a report of suspected abuse or neglect.
(d) Each department and school district that must comply with (b) of this section shall file a current copy of its training curriculum and materials with the Council on Domestic Violence and Sexual Assault. A department or school district may seek the technical assistance of the council or the Department of Health and Social Services in the development of its training program.
(e) Each school district that provides training under this section shall provide notice to public and private schools located in the school district of the availability of the training and invite volunteers who are required to report abuse or neglect of children under AS 47.17.020 to participate in the training at no cost to the volunteer.

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

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

§ 47.17.024. Duties of practitioners of the healing arts.
Alaska Stat. § 47.17.024

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

(b) In this section,
(1) “controlled substance” has the meaning given in AS 11.71.900, but does not include a substance lawfully taken under a prescription from a health care provider who is authorized to prescribe the substance;
(2) “infant” means a child who is less than 12 months of age.

§ 47.17.025. Duties of public authorities.
Alaska Stat. § 47.17.025

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

(b) The report of harm to a child from abuse required from the department by this section must include:
(1) the names and addresses of the child and the child’s parent or other persons responsible for the child's care, if known;
(2) the age and sex of the child;
(3) the nature and extent of the harm to the child from abuse;
(4) the name and age and address of the person known or believed to be responsible for the harm to the child from abuse, if known;
(5) information that the department believes may be helpful in establishing the identity of the person believed to have caused the harm to the child from abuse.

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

§ 47.17.027. Duties of school officials
Alaska Stat. § 47.17.027

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

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

§ 47.17.050. Immunity.
Alaska Stat. § 47.17.050

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

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

§ 47.17.060. Evidence not privileged.
Alaska Stat. § 47.17.060

Neither the physician-patient nor the husband-wife privilege is a ground for excluding evidence regarding a child's harm, or its cause, in a judicial proceeding related to a report made under this chapter.

§ 47.17.064. Photographs and x-rays.
Alaska Stat. § 47.17.064

(a) The department or a practitioner of the healing arts may, without the permission of the parents, guardian, or custodian, take the following actions with regard to a child who the department or practitioner has reasonable cause to suspect has suffered physical harm as a result of child abuse or neglect:

(1) take or have taken photographs of the areas of trauma visible on the child; and

(2) if medically indicated, have a medical or radiological examination of the child performed by a person who is licensed to administer the examination.

(b) The department or a practitioner of the healing arts shall notify the parents, guardian, or custodian of a child as soon as possible after taking action under (a) of this section with regard to the child.

§ 47.17.068. Penalty for failure to report.
Alaska Stat. § 47.17.068

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

§ 11.56.765. Failure to report a violent crime committed against a child
Alaska Stat. § 11.56.068

(a) A person, other than the victim, commits the crime of failure to report a violent crime committed against a child if the person

(1) witnesses what the person knows or reasonably should know is

(A) the murder or attempted murder of a child by another;

(B) the kidnapping or attempted kidnapping of a child by another;

(C) the sexual penetration or attempted sexual penetration by another

(i) of a child without consent of the child;
(ii) of a child that is mentally incapable;  
(iii) of a child that is incapacitated; or  
(iv) of a child that is unaware that a sexual act is being committed; or  
(D) the assault of a child by another causing serious physical injury to the child;  
(2) knows or reasonably should know that the child is under 16 years of age; and  
(3) does not in a timely manner report that crime to a peace officer or law enforcement agency.

(b) In a prosecution under this section, it is an affirmative defense that the defendant  
(1) did not report in a timely manner because the defendant reasonably believed that doing so would have exposed the defendant or others to a substantial risk of physical injury; or  
(2) acted to stop the commission of the crime and stopped  
(A) the commission of the crime; or  
(B) the completion of the crime being attempted.

(c) In this section,  
(1) “incapacitated” has the meaning given in AS 11.41.470;  
(2) “mentally incapable” has the meaning given in AS 11.41.470;  
(3) “sexual act” has the meaning given in AS 11.41.470;  
(4) “without consent” has the meaning given in AS 11.41.470.

(d) Failure to report a violent crime committed against a child is a class A misdemeanor.

§ 14.08.111. Duties of a regional school board.  
Alaska Stat. §14.08.111

A regional school board shall  
(1) provide, during the school term of each year, an educational program for each school age child who is enrolled in or a resident of the district;  
(2) develop a philosophy of education, principles, and goals for its schools;  
(3) approve the employment of the professional administrators, teachers, and noncertificated personnel necessary to operate its schools;  
(4) establish the salaries to be paid its employees;  
(5) designate the employees authorized to direct disbursements from the school funds of the board;  
(6) submit the reports prescribed for all school districts;  
(7) provide for an annual audit in accordance with AS 14.14.050;  
(8) provide custodial services and routine maintenance of school buildings and facilities;  
(9) establish procedures for the review and selection of all textbooks and instructional materials, including textbooks and curriculum materials for statewide correspondence programs, before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060; nothing in this paragraph precludes a correspondence study student, or the parent or guardian of a correspondence study student, from privately obtaining or using textbooks or curriculum material not provided by the school district;  
(10) provide prospective employees with information relating to the availability and cost of housing in rural areas to which they might be assigned, and, when possible, assist them in locating housing; however, nothing in this paragraph requires a regional school board to provide teacher housing, whether owned, leased, or rented or otherwise provided by the regional educational attendance area, nor does it require the board to engage in a subsidy program of any kind with respect to teacher
housing;
(9) train persons required to report under AS 47.17.020, in the recognition and reporting of child abuse, neglect, and sexual abuse of a minor; and
(12) establish procedures for providing the training under AS 14.18.060, AS 14.20.149, 14.20.680, AS 14.30.362, AS 14.33.100, AS 18.66.310, and AS 47.17.022; the procedures established under this paragraph must include a training schedule that ensures that not less than 50 percent of the total certificated staff employed by the district receive all of the training not less than every two years and that all of the certificated staff employed by the district receive all of the training not less than every four years.


In addition to other duties, a school board shall

(1) determine and disburse the total amount to be made available for compensation of all school employees and administrative officers;
(2) provide for, during the school term of each year, an educational program for each school age child who is enrolled in or a resident of the district;
(3) withhold the salary for the last month of service of a teacher or administrator until the teacher or administrator has submitted all summaries, statistics, and reports that the school board may require by bylaws;
(4) transmit, when required by the assembly or council but not more often than once a month, a summary report and statement of money expended;
(5) keep the minutes of meetings and a record of all proceedings of the school board in a pertinent form;
(6) keep the records and files of the school board open to inspection by the public at the principal administrative office of the district during reasonable business hours;
(7) establish procedures for the review and selection of all textbooks and instructional materials, including textbooks and curriculum materials for statewide correspondence programs, before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060; nothing in this paragraph precludes a correspondence study student, or the parent or guardian of a correspondence study student, from privately obtaining or using textbooks or curriculum material not provided by the school district;
(8) provide prospective employees with information relating to the availability and cost of housing in rural areas to which they might be assigned, and, when possible, assist them in locating housing; however, nothing in this paragraph requires a school district to provide teacher housing, whether district owned, leased, rented, or through other means, nor does it require a school board to engage in a subsidy program of any kind regarding teacher housing;
(9) train persons required to report under AS 47.17.020, in the recognition and reporting of child abuse, neglect, and sexual abuse of a minor;
(10) provide for the development and implementation of a preventative maintenance program for school facilities; in this paragraph, “preventative maintenance” means scheduled maintenance actions that prevent the premature failure or extend the useful life of a facility, or a facility’s systems and components, and that are cost-effective on a life-cycle basis;
(11) establish procedures for providing the training under AS 14.18.060, AS 14.20.149, 14.20.680, AS 14.30.362, AS 14.33.100, AS 18.66.310, and AS 47.17.022; the procedures established under this paragraph must include a training schedule that ensures that not less than 50 percent of the total certificated staff employed by the district receive all of the training not less than every two years and that all of the certificated staff employed by the district receive all of the training not less than every four years.
Alaska Stat. §14.30.355

(a) The governing body of each school district shall adopt and implement a policy, establish a training program for employees and students, and provide parent notices relating to sexual abuse and sexual assault awareness and prevention for students enrolled in grades kindergarten through 12.
(b) The policy, training, and notices adopted under this section must include
(1) age-appropriate information;
(2) warning signs of sexual abuse of a child;
(3) referral and resource information;
(4) available student counseling and educational support;
(5) methods for increasing teacher, student, and parent awareness of issues regarding sexual abuse of children;
(6) actions that a child may take to prevent and report sexual abuse or sexual assault; and
(7) a procedure allowing a student to be excused from participating in training or from receiving notices under this section at the written request of a parent or guardian of the student, or of the student if the student is emancipated or 18 years of age or older.
(c) The training required for teachers under this section may be provided as a part of the continuing education required under AS 18.66.310.
(d) In this section,
(1) “school district” has the meaning given in AS 14.30.350;
(2) “sexual abuse” or “sexual assault” has the meaning given to “sexual abuse” in AS 47.10.990.

§ 08.29.200. Confidentiality of communications
Alaska Stat. § 08.29.200

(a) A person licensed under this chapter may not reveal to another person a communication made to the licensee by a client about a matter concerning which the client has employed the licensee in a professional capacity. This section does not apply to
(1) a communication to a potential victim, the family of a potential victim, law enforcement authorities, or other appropriate authorities concerning a clear and immediate probability of physical harm to the client, other individuals, or society;
(2) a case conference or case consultation with other mental health professionals at which the patient is not identified;
(3) the release of information that the client in writing authorized the licensee to reveal;
(4) information released to the board during the investigation of a complaint or as part of a disciplinary or other proceeding; or
(5) situations where the rules of evidence applicable to the psychotherapist-patient privilege allow the release of the information.
(b) Notwithstanding (a) of this section, a person licensed under this chapter shall report incidents of
(1) child abuse or neglect as required by AS 47.17;
(2) harm or assaults suffered by a vulnerable adult as required by AS 47.24.
(c) Information obtained by the board under (a)(4) of this section is confidential and is not a public record for purposes of AS 40.25.110 - 40.25.140.
Cite as AS 08.29.200

§ 08.63.200. Confidentiality of communication
Alaska Stat. § 08.63.200

(a) A person licensed under this chapter may not reveal to another person a communication made to the licensee by a client about a matter concerning which the client has employed the licensee in a professional capacity. This section does not apply to
(1) a communication to a potential victim, the family of a potential victim, law enforcement authorities, or other appropriate authorities concerning a clear and immediate probability of physical harm to the client, other individuals, or society;
(2) a case conference or case consultation with other mental health professionals at which the patient is not identified;
(3) the release of information that the client in writing authorized the licensee to reveal;
(4) information released to the board during the investigation of a complaint or as part of a disciplinary or other proceeding; or
(5) situations where the rules of evidence applicable to the psychotherapist-patient privilege allow the release of the information.
(b) Notwithstanding (a) of this section, a person licensed under this chapter shall report incidents of
(1) child abuse or neglect as required by AS 47.17;
(2) harm or assaults suffered by a vulnerable adult as required by AS 47.24.
(c) Information obtained by the board under (a)(4) of this section is confidential and is not a public record for purposes of AS 40.25.110 - 40.25.140.
Cite as AS 08.29.200

§ 08.63.200. Confidentiality of communication
Alaska Stat. § 08.63.200
(a) A person licensed under this chapter may not reveal to another person a communication made to the licensee by a client about a matter concerning which the client has employed the licensee in a professional capacity. This section does not apply to

1. a case conference or case consultation with other mental health professionals at which the patient is not identified;
2. the release of information that the client in writing authorized the licensee to reveal;
3. information released to the board as part of a disciplinary or other proceeding;
4. situations where the rules of evidence applicable to the psychotherapist-patient privilege allow the release of the information;
5. a communication to a potential victim or to law enforcement officers where a threat of imminent serious physical harm to an identified victim has been made by a client; or
6. a disclosure revealing a communication about an act that the licensee has reasonable cause to suspect constitutes unlawful or unethical conduct that would be grounds for imposition of disciplinary sanctions by a person licensed to provide health or mental health services, if the disclosure is made only to the licensing board with jurisdiction over the person who allegedly committed the act, and the disclosure is made in good faith.

(b) Notwithstanding (a) of this section, a person licensed under this chapter shall report incidents of

1. child abuse or neglect as required by AS 47.17;
2. harm or assaults suffered by a vulnerable adult as required by AS 47.24.

§ 08.86.200. Confidentiality of communication, psychologist.
Alaska Stat. § 08.86.200

(a) A psychologist or psychological associate may not reveal to another person a communication made to the psychologist or psychological associate by a client about a matter concerning which the client has employed the psychologist or psychological associate in a professional capacity. This section does not apply to

1. a case conference with other mental health professionals or with physicians and surgeons;
2. a case in which the client in writing authorized the psychologist or psychological associate to reveal a communication;
3. a case where an immediate threat of serious physical harm to an identifiable victim is communicated to a psychologist or psychological associate by a client;
4. disclosures of confidential communications required under Rule 504, Alaska Rules of Evidence; or
5. proceedings conducted by the board or the department where the disclosure of confidential communications is necessary to defend against charges that the psychologist or psychological associate has violated provisions of this chapter; information obtained by the board or department under this paragraph is confidential and is not a public record for purposes of AS 40.25.110 - 40.25.140.

(b) Notwithstanding (a) of this section, a psychologist or psychological associate shall report to the appropriate authority incidents of child abuse or neglect as required by AS 47.17, incidents of abuse of a vulnerable adult as required by AS 47.24, and incidents of abuse of disabled persons disclosed to the psychologist or psychological associate by a client. In this subsection “disabled person” means a person who has a physical or mental disability or a physical or mental impairment, as defined in AS 18.80.300.

(c) Information obtained by the board under (a)(3) of this section is confidential and is not a public record for purposes of AS 40.25.110 - 40.25.140.
§ 13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions.

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

1. Any physician, physician’s assistant, optometrist, dentist, osteopath, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.
2. Any peace officer, child welfare investigator, child safety worker, member of the clergy, priest or Christian Science practitioner.
3. The parent, stepparent or guardian of the minor.
4. School personnel, domestic violence victim advocates or sexual assault victim advocates who develop the reasonable belief in the course of their employment.
5. Any other person who has responsibility for the care or treatment of the minor.

B. A report is not required under this section either:
1. For conduct prescribed by sections 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual.
2. If a minor is of elementary school age, the physical injury occurs accidentally in the course of typical playground activity during a school day, occurs on the premises of the school that the minor attends and is reported to the legal parent or guardian of the minor and the school maintains a written record of the incident.

C. If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.
D. Reports shall be made immediately either electronically or by telephone. The reports shall contain the following information, if known:
1. The names and addresses of the minor and the minor’s parents or the person or persons having custody of the minor.
2. The minor’s age and the nature and extent of the minor’s abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.
3. Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

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

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

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

H. When reports are received by a peace officer, the officer shall immediately notify the department of child safety. Notwithstanding any other statute, when the department receives these reports, it shall immediately notify a peace officer in the appropriate jurisdiction.

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

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

K. Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:
1. Civil or criminal litigation or administrative proceeding in which a minor’s neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.
2. Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.
3. Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a peace officer or the department of child safety.

L. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a Christian Science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the clergy, a Christian Science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. This subsection does not discharge a member of the clergy, a Christian Science practitioner or a priest from the duty to report pursuant to subsection A of this section.

M. If psychiatric records are requested pursuant to subsection G of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:
   1. Personal information about individuals other than the patient.
   2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

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

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

P. For the purposes of this section:
   1. “Abuse” has the same meaning prescribed in section 8-201.
   2. “Child abuse” means child abuse pursuant to section 13-3623.
   3. “Neglect” has the same meaning prescribed in section 8-201.
   4. “Reportable offense” means any of the following:
      (a) Any offense listed in chapters 14 and 35.1 of this title or section 13-3506.01.
      (b) Surreptitious photographing, videotaping, filming or digitally recording or viewing a minor pursuant to section 13-3019.
      (c) Child sex trafficking pursuant to section 13-3212.
      (d) Incest pursuant to section 13-3608.
      (e) Unlawful mutilation pursuant to section 13-1214.

§ 13-3620.01. False reports; violation; classification
AZ Rev Stat § 13-3620.01

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

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

§ 13-3506.01. Furnishing harmful items to minors; internet activity; classification
AZ Stat § 13-3506.01
A. It is unlawful for any person, with knowledge of the character of the item involved, to intentionally or knowingly transmit or send to a minor by means of electronic mail, personal messaging or any other direct internet communication an item that is harmful to minors when the person knows or believes at the time of the transmission that a minor in this state will receive the item.

B. This section does not apply to:
   1. Posting material on an internet web site, bulletin board or newsgroup.
   2. Sending material via a mailing list or listserv that is not administered by the sender. For the purposes of this paragraph, “mailing list” or “listserv” means a method of internet communication where a message is sent to an internet address and then is retransmitted to one or more subscribers to the mailing list or listserv.

C. It is not a defense to a prosecution for a violation of this section that the recipient of the transmission was a peace officer posing as a minor.

D. A violation of this section is a class 4 felony.

E. The failure to report a violation of this section is a class 6 felony as prescribed by section 13-3620.

F. For the purposes of this section:
   1. “Internet” means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the transmission control protocol or internet protocol or any successor protocol to transmit information.
   2. “Internet web site” means a location where material placed in a computer server-based file archive is publicly accessible, over the internet, using hypertext transfer protocol or any successor protocol.

§ 13-3559. Reporting suspected visual depictions of sexual exploitation of a minor; immunity.
AZ Rev Stat § 13-3559

A. Any communication service provider, remote computing service, system administrator, computer repair technician or other person who discovers suspected visual depictions of sexual exploitation of a minor on a computer, computer system or network or in any other storage medium may report that discovery to a law enforcement officer.

B. A person who on discovery in good faith reports the discovery of suspected visual depictions involving the sexual exploitation of a minor is immune from civil liability.

C. It is an affirmative defense to a prosecution for a violation of section 13-3553 that on discovery a person in good faith reports the discovery of unsolicited suspected visual depictions involving the sexual exploitation of a minor.

§ 8-807. DCS information; public record; use; confidentiality; violation; classification; definition.
AZ Rev Stat § 8-807

A. DCS information shall be maintained by the department as required by federal law as a condition of the allocation of federal monies to this state. All exceptions for the public release of DCS information shall be construed as openly as possible under federal law.
B. The department, or a person who receives DCS information pursuant to this subsection, shall provide DCS information to a federal agency, a state agency, a tribal agency, a county or municipal agency, a law enforcement agency, a prosecutor, an attorney or a guardian ad litem representing a child victim of crime pursuant to article II, section 2.1, Constitution of Arizona, a school, a community service provider, a contract service provider or any other person that is providing services pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter:
1. To meet its duties to provide for the safety and permanency of a child, provide services to a parent, guardian or custodian or provide services to family members to strengthen the family pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter.
2. To enforce or prosecute any violation involving child abuse or neglect or to assert the rights of the child as a victim of a crime.
3. To help investigate and prosecute any violation involving domestic violence as defined in section 13-3601 or violent sexual assault as prescribed in section 13-1423.

C. The department shall disclose DCS information to a court, a party in a dependency or termination of parental rights proceeding or the party's attorney, the foster care review board or a court appointed special advocate for the purposes of and as prescribed in this title.

D. The department shall disclose DCS information to a domestic relations, family or conciliation court if the DCS information is necessary to promote the safety and well-being of children. The court shall notify the parties that it has received the DCS information.

E. A person or agent of a person who is the subject of DCS information shall have access to DCS information concerning that person.

F. The department may provide:
   1. DCS information to confirm, clarify, correct or supplement information concerning an allegation or actual instance of child abuse or neglect that has been made public by a source or sources outside the department.
   2. DCS information to a person who is conducting bona fide research, the results of which might provide DCS information that is beneficial in improving the department.
   3. Access to DCS information to the parent, guardian or custodian of a child if the DCS information is reasonably necessary to promote the safety, permanency and well-being of the child.
   4. DCS information if an employee of the department has a reasonable belief that exigent circumstances exist. For the purposes of this paragraph, “exigent circumstances” means a condition or situation in which the death of or serious injury to a child will likely result in the near future without immediate intervention.

G. The department shall disclose DCS information to a county medical examiner or an alternate medical examiner directing an investigation into the circumstances surrounding a death pursuant to section 11-593.

H. Access to DCS information in the central registry shall be provided as prescribed in section 8-804.

I. To provide oversight of the department, the department shall provide access to DCS information to the following persons, if the DCS information is reasonably necessary for the person to perform the person's official duties:
1. Federal or state auditors.
2. Persons conducting any accreditation deemed necessary by the department.
3. A standing committee of the legislature or a committee appointed by the president of the senate or the speaker of the house of representatives for purposes of conducting investigations related to the legislative oversight of the department. This information shall not be further disclosed unless a court has ordered the disclosure of this information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding.
4. A legislator who requests DCS information in the regular course of the legislator’s duties. A legislator may discuss this information with another legislator if the other legislator has signed the form prescribed in subdivision (d) of this paragraph in regard to the specific file that will be discussed. This information shall not be further disclosed unless a court has ordered the disclosure of this information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding. To request a file pursuant to this paragraph:
   (a) The legislator shall submit a written request for DCS information to the presiding officer of the body of which the state legislator is a member. The request shall state the name of the person whose case file is to be reviewed and any other information that will assist the department in locating the file.
   (b) The presiding officer shall forward the request to the department within five working days of the receipt of the request.
   (c) The department shall make the necessary arrangements for the legislator to review the file at an office of the department, chosen by the legislator, within ten working days.
   (d) The legislator shall sign a form, consistent with the requirements of this paragraph and paragraph 3 of this subsection, before reviewing the file, that outlines the confidentiality laws governing department files and penalties for further release of the information.
5. A citizen review panel as prescribed by federal law, a child fatality review team as provided in title 36, chapter 35 and the office of ombudsman-citizens aide.
6. A human rights committee established pursuant to section 41-3801.
7. The governor who shall not disclose any information unless a court has ordered the disclosure of the information, the information has been disclosed in a public or court record or the information has been disclosed in the course of a public meeting or court proceeding.

J. A person who has been denied DCS information regarding a fatality or near fatality caused by abuse, abandonment or neglect pursuant to subsection L of this section or section 8-807.01 may bring a special action pursuant to section 39-121.02 in the superior court to order the department to release that DCS information. A legislator has standing to bring or to join a special action regarding the release of DCS information or to challenge the redaction of released DCS information. The plaintiff shall provide notice to the county attorney, who has standing and may participate in the action. The court shall review the requested records in camera and order disclosure consistent with subsections A and L of this section and section 8-807.01. The court shall take reasonable steps to prevent any clearly unwarranted invasions of privacy and protect the privacy and dignity of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

K. The department or a person who is not specifically authorized by this section to obtain DCS information may petition a judge of the superior court to order the department to release DCS information. The plaintiff shall provide notice to the county attorney and to the attorney and guardian ad litem for the child, who have standing and may participate in the action. The court shall review the requested records in camera and shall balance the rights of the parties who are entitled to confidentiality pursuant to this section against the rights of the parties who are seeking the release of the DCS information. The court
may release otherwise confidential DCS information only if the rights of the parties seeking the DCS information and any benefits from releasing the DCS information outweigh the rights of the parties who are entitled to confidentiality and any harm that may result from releasing the DCS information. The court shall take reasonable steps to prevent any clearly unwarranted invasions of privacy and protect the privacy and dignity of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

L. Except as provided in subsection M of this section, before it releases records under this section or section 8-807.01, the department shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of a person who reports child abuse or neglect and to protect any other person if the department believes that disclosure of the DCS information would be likely to endanger the life or safety of any person. The department is not required by this section to disclose DCS information if the department demonstrates that disclosure would cause a specific, material harm to a department investigation. The department is not required by this section to disclose DCS information if, in consultation with the county attorney, the county attorney demonstrates that disclosure would cause a specific, material harm to a criminal investigation or prosecution.

M. A person who is the subject of an unfounded report or complaint made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter and who believes that the report or complaint was made in bad faith or with malicious intent may petition a judge of the superior court to order the department to release the DCS information. The petition shall specifically set forth reasons supporting the person's belief that the report or complaint was made in bad faith or with malicious intent. The court shall review the DCS information in camera and the person filing the petition shall be allowed to present evidence in support of the petition. If the court determines that there is a reasonable question of fact as to whether the report or complaint was made in bad faith or with malicious intent and that disclosure of the identity of the person making the report or complaint would not be likely to endanger the life or safety of the person making the report or complaint, it shall provide a copy of the DCS information to the person filing the petition and the original DCS information is subject to discovery in a subsequent civil action regarding the making of the report or complaint.

N. The department shall provide the person who conducts a forensic medical evaluation with any records the person requests, including social history and family history regarding the child, the child's siblings and the child's parents or guardians.

O. The department shall provide DCS information on request to a prospective adoptive parent, foster parent or guardian, if the information concerns a child the prospective adoptive parent, foster parent or guardian seeks to adopt or provide care for.

P. If the department receives information that is confidential by law, the department shall maintain the confidentiality of the information as prescribed in the applicable law.

Q. A person may authorize the release of DCS information about the person but may not waive the confidentiality of DCS information concerning any other person.

R. The department may provide a summary of the outcome of a department investigation to the person who reported the suspected child abuse or neglect.

S. The department shall adopt rules to facilitate the accessibility of DCS information.

T. The department or a person who receives DCS information pursuant to subsection
B of this section shall provide DCS information to law enforcement and a court to protect the safety of any employee of the department or the office of the attorney general or to protect a family member of such an employee.

U. A person who receives DCS information shall maintain the confidentiality of the information and shall not further disclose the information unless the disclosure is authorized by law or a court order.

V. The department may charge a fee for copying costs required to prepare DCS information for release pursuant to this section or section 8-807.01.

W. A person who violates this section is guilty of a class 2 misdemeanor.

X. For the purposes of this section, “DCS information” includes all information the department gathers during the course of an investigation conducted under this chapter from the time a file is opened and until it is closed. DCS information does not include information that is contained in child welfare agency licensing records.

§ 12-2238. Mediation; privileged communications; exceptions; liability; definitions.

A. Before or after the filing of a complaint, mediation may occur pursuant to law, a court order or a voluntary decision of the parties.

B. The mediation process is confidential. Communications made, materials created for or used and acts occurring during a mediation are confidential and may not be discovered or admitted into evidence unless one of the following exceptions is met:
   1. All of the parties to the mediation agree to the disclosure.
   2. The communication, material or act is relevant to a claim or defense made by a party to the mediation against the mediator or the mediation program arising out of a breach of a legal obligation owed by the mediator to the party.
   3. The disclosure is required by statute.
   4. The disclosure is necessary to enforce an agreement to mediate.
   5. The disclosure is made in a report to a law enforcement officer, the department of child safety or adult protective services by a court appointed mediator who reasonably believes that a minor or vulnerable adult is or has been a victim of abuse, child abuse, neglect, exploitation, physical injury or a reportable offense.

C. Except pursuant to subsection B, paragraph 2, 3, 4 OR 5 of this section, a mediator is not subject to service of process or a subpoena to produce evidence or to testify regarding any evidence or occurrence relating to the mediation proceedings. Evidence that exists independently of the mediation even if the evidence is used in connection with the mediation is subject to service of process or subpoena.

D. Notwithstanding subsection B of this section, when necessary to enforce or obtain approval of an agreement that is reached by the parties in a mediation, the terms of an agreement that is evidenced by a record that is signed by the parties are not confidential. The agreement may be introduced in any proceeding to obtain court approval of the agreement, where required by law, or to enforce the agreement. If a party requests that all or a portion of the agreement remain confidential, the agreement may be disclosed to the court under seal with a request to issue appropriate orders to protect the confidentiality of the agreement, as permitted by law.

E. Notwithstanding subsection B of this section, threatened or actual violence that
occurs during a mediation is not a privileged communication. The mediator may inform the parties that threatened or actual violence is not privileged and may be disclosed.

F. A mediator is not subject to civil liability except for those acts or omissions that involve intentional misconduct or reckless disregard of a substantial risk of a significant injury to the rights of others.

G. For the purposes of this section:
1. “Abuse” has the same meaning prescribed in section 8-201 if the victim is a minor or section 46-451 if the victim is a vulnerable adult.
2. “Child abuse” means child abuse pursuant to section 13-3623.
4. “Mediation” means a process in which parties who are involved in a dispute enter into one or more private settlement discussions outside of a formal court proceeding with a neutral third party to try to resolve the dispute.
5. “Neglect” has the same meaning prescribed in section 8-201 if the victim is a minor or section 46-451 if the victim is a vulnerable adult.
6. “Physical injury” has the same meaning prescribed in section 13-105.
7. “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and that is retrievable in a perceivable form.
8. “Reportable offense” has the same meaning prescribed in section 13-3620.
9. “Sign” means to execute or adopt a tangible symbol with the present intent to authenticate a record or to attach or logically associate an electronic symbol, sound or process to or with a record with the present intent to authenticate a record.
10. “Vulnerable adult” has the same meaning prescribed in section 13-3623.
§ 12-18-102. Purpose

The purpose of this chapter is to:

(1) Provide a system for the reporting of known or suspected child maltreatment;

(2) Ensure the immediate screening, safety assessment, and prompt investigation of reports of known or suspected child maltreatment;

(3) Ensure that immediate steps are taken to:
   (A) Protect a maltreated child and any other child under the same care who may also be in danger of maltreatment; and
   (B) Place a child whose health or physical well-being is in immediate danger in a safe environment;

(4) Provide immunity from criminal prosecution for an individual making a good faith report of suspected child maltreatment;

(5) Preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians;

(6) Encourage the cooperation of state law enforcement officials, courts, and state agencies in the investigation, assessment, prosecution, and treatment of child maltreatment; and

(7) Stabilize the home environment if a child's health and safety are not at risk


(a) Any data, records, reports, or documents that are created, collected, or compiled by or on behalf of the Department of Human Services, the Department of Arkansas State Police, or other entity authorized under this chapter to perform investigations or provide services to children, individuals, or families shall not be subject to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(b) Any data, records, reports, or documents released under this chapter to law enforcement, a prosecuting attorney, or a court by the Department of Human Services and the Department of Arkansas State Police are confidential and shall be sealed and not re-disclosed without a protective order to ensure the items of evidence for which there is a reasonable expectation of privacy are not distributed to a person or institution without a legitimate interest in the evidence, provided that nothing in this chapter is deemed to abrogate the right of discovery in a criminal case under the Arkansas Rules of Criminal Procedure or the law.

(c) This section does not prohibit the disclosure and discussion of confidential data, records, reports, or documents created, collected, or compiled by or on behalf of the Department of Human Services, the Department of Arkansas State Police, or other entity authorized under this chapter to perform investigations or provide services to children, individuals, or families in closed meetings conducted by the Child Maltreatment Investigations Oversight Committee under § 10-3-3201 et seq.


(a) A person or agency required by this chapter to report suspected child maltreatment who acts in good faith in making notification, the taking of a photograph or radiological test, or the removal of a child while exercising a seventy-
two-hour hold is immune to suit and to civil and criminal liability.

(b) If acting in good faith, a person making notification not named in this section is immune from liability.

(c) A publicly supported school, facility, or institution acting in good faith by cooperating with the investigative agency under this chapter shall be immune from civil and criminal liability.

§ 12-18-201. Failure to notify by a mandated reporter in the first degree.

(a) A person commits the offense of failure to notify by a mandated reporter in the first degree if he or she:
   (1) Is a mandated reporter under this chapter;
   (2) Has:
      (A) Reasonable cause to suspect that a child has been subjected to child maltreatment;
      (B) Reasonable cause to suspect that a child has died as a result of child maltreatment; or
      (C) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment; and
   (3) Knowingly fails to notify the Child Abuse Hotline of the child maltreatment or suspected child maltreatment.

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

§ 12-18-202. Failure to notify by a mandated reporter in the second degree.

(a) A person commits the offense of failure to notify by a mandated reporter in the second degree if he or she:
   (1) Is a mandated reporter under this chapter;
   (2) Has:
      (A) Reasonable cause to suspect that a child has been subjected to child maltreatment;
      (B) Reasonable cause to suspect that a child has died as a result of child maltreatment; or
      (C) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment; and
   (3) Recklessly fails to notify the Child Abuse Hotline of the child maltreatment or suspected child maltreatment.

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

§ 12-18-203. Making a false report under this chapter.

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

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

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

(a)

(1) An employer or supervisor of an employee identified as a mandated reporter commits the offense of unlawful restriction of child abuse reporting if he or she:

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

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

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

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

(b) Information disclosed to a person or institution under subdivision (a)(2)(A) of this section shall not be shared outside the organization and may only be shared within the organization to protect the health, safety, and welfare of the child.

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

§ 12-18-206. Civil liability or failure to report.  

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


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


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

(1) Has reasonable cause to suspect that:

(A) Child maltreatment has occurred; or

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

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

(a) An individual listed as a mandated reporter under subsection (b) of this section shall immediately notify the Child Abuse Hotline if he or she:
   (1) Has reasonable cause to suspect that a child has:
       (A) Been subjected to child maltreatment;
       (B) Died as a result of child maltreatment; or
       (C) Died suddenly and unexpectedly; or
   (2) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.

(b) The following individuals are mandated reporters under this chapter:
   (1) A child care worker or foster care worker;
   (2) A coroner;
   (3) A day care center worker;
   (4) A dentist;
   (5) A dental hygienist;
   (6) A domestic abuse advocate;
   (7) A domestic violence shelter employee;
   (8) A domestic violence shelter volunteer;
   (9) An employee of the Department of Human Services;
   (10) An employee working under contract for the Division of Youth Services of the Department of Human Services;
   (11) A foster parent;
   (12) A judge;
   (13) A law enforcement official;
   (14) A licensed nurse;
   (15) Medical personnel who may be engaged in the admission, examination, care, or treatment of persons;
   (16) A mental health professional or paraprofessional;
   (17) An osteopath;
   (18) A peace officer;
   (19) A physician;
   (20) A prosecuting attorney;
   (21) A resident intern;
   (22) A public or private school counselor;
   (23) A school official, including without limitation institutions of higher education;
   (24) A social worker;
   (25) A surgeon;
   (26) A teacher;
   (27) A court-appointed special advocate program staff member or volunteer;
   (28) A juvenile intake or probation officer;
   (29) A clergy member, which includes a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed to be so by the person consulting him or her, except to the extent the clergy member:
       (A) Has acquired knowledge of suspected child maltreatment through communications required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith; or
       (B) Received the knowledge of the suspected child maltreatment from the alleged offender in the context of a statement of admission;
   (30) An employee of a child advocacy center or a child safety center;
   (31) An attorney ad litem in the course of his or her duties as an attorney ad litem;
   (32)
(A) A sexual abuse advocate or sexual abuse volunteer who works with a victim of sexual abuse as an employee of a community-based victim service or mental health agency such as Safe Places, United Family Services, Inc., or Centers for Youth and Families.
(B) A sexual abuse advocate or sexual abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;
(33) A rape crisis advocate or rape crisis volunteer;
(34) A child abuse advocate or child abuse volunteer who works with a child victim of abuse or maltreatment as an employee of a community-based victim service or a mental health agency such as Safe Places, United Family Services, Inc., or Centers for Youth and Families.
(B) A child abuse advocate or child abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;
(35) A victim/witness coordinator;
(36) A victim assistance professional or victim assistance volunteer;
(37) An employee of the Crimes Against Children Division of the Department of Arkansas State Police;
(38) An employee of a reproductive healthcare facility;
(39) A volunteer at a reproductive healthcare facility; and
(40) An individual not otherwise identified in this subsection who is engaged in performing his or her employment duties with a nonprofit charitable organization other than a nonprofit hospital.

(c) (1) A privilege or contract shall not prevent a person from reporting child maltreatment when he or she is a mandated reporter and required to report under this section.
(2) An employer or supervisor of an employee identified as a mandated reporter shall not prohibit an employee or a volunteer from directly reporting child maltreatment to the Child Abuse Hotline.
(3) An employer or supervisor of an employee identified as a mandated reporter shall not require an employee or a volunteer to obtain permission or notify any person, including an employee or a supervisor, before reporting child maltreatment to the Child Abuse Hotline.

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

(a) As used in this section:
(1) “Child maltreatment” means the abuse, sexual abuse, neglect, sexual exploitation, or abandonment of a child under the Child Maltreatment Act, § 12-18-101 et seq.; and
(2) “Licensed school personnel” means a person who works with students in an elementary or secondary public school, a public charter school, a school district, or an education service cooperative for whom a license issued by the State Board of Education is a condition of employment, including without limitation a:
(A) School or school district administrator;
(B) Teacher;
(C) Coach for a school athletics program;
(D) School counselor;
(E) School social worker;
(F) School psychologist; and
(G) School nurse.

(b) For each degree program at an institution of higher education in this state that is a prerequisite for licensure or certification in a profession in which the professional is a child maltreatment mandated reporter under the Child Maltreatment Act, § 12-18-101 et seq., the Department of Higher Education shall coordinate with all the institutions of higher education to ensure that before receiving a degree, each graduate receives the training identified in subdivision (d)(1) of this section.

(c) Licensed school personnel shall obtain the training identified in subsection (d) of this section within twelve (12) months of:
   (1) The individual’s initial licensure; and
   (2) All subsequent renewals of the individual’s license.

(d)
   (1) The training required under this section shall include without limitation:
      (A) Recognizing the signs and symptoms of child maltreatment;
      (B) The legal requirements of the Child Maltreatment Act, § 12-18-101 et seq., and the duties of mandated reporters under the act; and
      (C) Methods for managing disclosures regarding child victims.
   (2) In addition to the training required under subdivision (d)(1) of this section, licensed school personnel shall obtain training in connecting a victim of child maltreatment to appropriate in-school services and other agencies, programs, and services needed to provide the child with the emotional and educational support the child needs to continue to be successful in school.

(e)
   (1) The training obtained by licensed school personnel may be obtained as in-person or online training.
   (2) The Arkansas Child Abuse/Rape/Domestic Violence Commission shall approve the curriculum for the training.
   (3) Licensed school personnel shall document completed training according to the rules of the State Board of Education.


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

(b) Facsimile transmission and online reporting may be used in nonemergency situations by an identified mandated reporter under this chapter who provides the following contact information:
   (1) Name and phone number; and
   (2) In the case of online reporting, the email address of the identified mandated reporter under this chapter.

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

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

§ 12-18-307. Reports alleging Munchausen syndrome by proxy or factitious illness.
The Child Abuse Hotline shall accept a report of child maltreatment alleging Munchausen syndrome by proxy or factitious illness only if the reporter is a medical professional.

§ 12-18-308. Reports of injury to a child's intellectual, emotional, or psychological development.

The Child Abuse Hotline shall accept a report of injury to a child's intellectual, emotional, or psychological development as evidenced by observable and substantial impairment of the child's ability to function within the child's normal range of performance and behavior only if the reporter is:

(1) A medical or mental health professional;
(2) A school counselor, if the child did not disclose to the teacher;
(3) A teacher; or
(4) A day care center worker.


(a) All healthcare providers involved in the delivery or care of infants shall:
   (1) Contact the Department of Human Services regarding an infant born and affected with a fetal alcohol spectrum disorder; and
   (2) Share all pertinent information, including health information, with the department regarding an infant born and affected with a fetal alcohol spectrum disorder.

(b) The department shall accept referrals, calls, and other communications from healthcare providers involved in the delivery or care of infants born and affected with a fetal alcohol spectrum disorder.

(c) The department shall develop a plan of safe care for infants affected with a fetal alcohol spectrum disorder.


(a)

(1) The Department of Human Services and the Department of Arkansas State Police shall not release data that would identify the person who made the report to the Child Abuse Hotline unless a court of competent jurisdiction orders release of the information after the court has reviewed in camera the record related to the report and has found it has reason to believe that the reporter knowingly made a false report.
(2) However, upon request the information shall be disclosed to the prosecuting attorney or law enforcement.

(b)

(1) A person or agency to whom disclosure is made shall not disclose to any other person a report or other information obtained pursuant to this section.
(2) However, the person or agency is permitted to consult his or her own attorney regarding the information in any notice provided by the Department of Human Services and the Department of Arkansas State Police.

The Department of Human Services and the Department of Arkansas State Police shall notify the following of any report of child maltreatment within five (5) business days:

(1) The legal parents, legal guardians, and current foster parent of a child in foster care who is named as a victim or alleged offender;
(2) The attorney ad litem for any child named as the victim or alleged offender;
(3) A person appointed by the court as the Court Appointed Special Advocates volunteer for any child named as the victim or alleged offender;
(4) Counsel in a dependency-neglect case or family in need of services case when the child is named as a victim or alleged offender;
(5) The attorney ad litem and Court Appointed Special Advocates volunteer for all other children in the same foster home if the child maltreatment occurred in a foster home;
(6) The attorney ad litem and Court Appointed Special Advocates volunteer for any child in foster care when the alleged juvenile offender or underaged juvenile offender is placed in the same placement as the attorney ad litem or Court Appointed Special Advocates volunteer's client;
(7) The responsible multidisciplinary team; and
(8) A mandated reporter, if the mandated reporter made the initial notification of suspected child maltreatment and the notification has been accepted for investigation.


(a) A person who is required to make a report under this chapter may take or cause to be taken radiology procedures and photographs or compile medical records that may be relevant as to the existence or extent of child maltreatment.

(b) A hospital, clinic, child safety center, or the Department of Human Services and the Department of Arkansas State Police may make electronic media that may be relevant as to the existence or extent of child maltreatment.

(c) The Department of Human Services and the Department of Arkansas State Police, or law enforcement officials shall be provided at no cost a copy of the results of radiology procedures, electronic media, photographs, or medical records upon request.


(a) Information on a pending investigation under this chapter is confidential and may be disclosed only as provided in this chapter.

(b)

(1) The Department of Human Services shall not release data that would identify a person who made a report under this chapter unless a court of competent jurisdiction orders release of the information after the court has reviewed in camera the record related to the report and has found it has reason to believe that the reporter knowingly made a false report.

(2) However, upon request, the information shall be disclosed to the
prosecuting attorney or law enforcement.

(c)

(1) Any person or agency to whom disclosure is made shall not disclose to any other person any information obtained pursuant to this section. (2) However, the person or agency is permitted to consult his or her or its own attorney regarding the information in any notice provided by the department.

(d) The department may provide information, including protected health information, to a person or agency that provides services such as medical examination of, an assessment interview with, or diagnosis of, care for, treatment of, or supervision of a victim of child maltreatment, a juvenile offender, or an underaged juvenile offender.

(e) Information on a pending investigation, including protected health information, shall be released upon request to:

1. The department, excluding pending investigations on an employee or spouse of the Division of Children and Family Services of the Department of Human Services;
2. Law enforcement;
3. The prosecuting attorney;
4. The responsible multidisciplinary team;
5. The attorney ad litem of the alleged victim or offender;
6. A court-appointed special advocate volunteer for the alleged victim or offender;
7. Any licensing or registering authority to the extent necessary to carry out its official responsibilities;
8. Any department division director or facility director receiving notice of a Child Abuse Hotline report pursuant to this chapter;
9. Any facility director receiving notice of a Child Abuse Hotline report pursuant to this chapter;
10. Any family advocacy program or other person designated by the military authority for the military installation receiving notice of a Child Abuse Hotline report under § 12-18-508;

11. (A) (i) Acting in their official capacities, individual United States and Arkansas senators and representatives and their authorized staff members but only if they agree not to permit any redisclosure of the information.
   (ii) This subdivision (e)(11)(A) does not prohibit an individual United States or Arkansas senator or representative from disclosing information to another United States or Arkansas senator or representative.

   (B) However, disclosure shall not be made to any committee or legislative body; and

12. The attorney ad litem and court-appointed special advocate of a juvenile who has an open dependency-neglect case, if the alleged offender or the minor victim resides in the home or in the proposed placement location for the juvenile that is not a licensed foster home, adoptive home, shelter, or facility.

(f) Information on a pending investigation, including protected health information, may be released to or disclosed in a circuit court child custody case or similar case if:

1. No seventy-two-hour hold has been exercised under this chapter or pleadings filed pursuant to the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;
2. Written notice of intent to request release or disclosure is provided to the investigating agency at least five (5) days before the date for release or disclosure;
3. The investigating agency has the opportunity to appear before the court.
be heard on the issue of release or disclosure.
(4) The information gathered by the investigative agency is necessary for the
determination of an issue before the court;
(5) Waiting until completion of the investigation will jeopardize the health or
safety of the child in the custody case;
(6) A protective order is issued to prevent redisclosure of the information
provided by the investigating agency or the information is released or
disclosed only to the court in camera; and
(7) Release or disclosure of the information will not compromise a criminal
investigation.

(g) Information on a pending investigation, including protected health information,
may be released to or disclosed in the circuit court if the victim or alleged offender
has an open dependency-neglect or family in need of services case before the circuit
court.


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

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

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

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

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

Each board, commission, or other entity that licenses mandatory reporters of child
abuse and neglect shall provide notice to each licensee concerning the online and
web-based child abuse reporting program required under § 16-10-138.
§ 11165.1. “Sexual abuse,” “sexual assault,” and “sexual exploitation” defined.

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. “Neglect” defined.
Ca. Pen. Code § 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.

§ 11165.6. “Child abuse or neglect” defined.
Ca. Pen. Code § 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.

§ 11165.7. Mandated reporter defined.
Cal. Pen. Code § 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, board member, or employee of a public or private organization whose duties require direct contact and supervision of children, including a foster family agency.
(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 associate marriage and family therapist 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) An associate professional clinical counselor 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 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.

(45) An individual certified by a licensed foster family agency as a certified family home, as defined in Section 1506 of the Health and Safety Code.

(46) An individual approved as a resource family, as defined in Section 1517 of the Health and Safety Code and Section 16519.5 of the Welfare and Institutions Code.

(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) 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 day care 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.
Cal.Penal Code § 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.

§ 11165.13. Positive toxicology screen at time of delivery of infant.

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.

§ 11165.15. Homeless youth, reporting of.
Ca. Pen. 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. Report of child abuse or neglect; mandatory reporters; reasonable suspicion defined; form of report; criminal liability for failure to report; investigation; other reporters; joint reports; retaliation prohibited; report by county probation or welfare department, or law enforcement agency, to investigatory agency and district attorney.

Cal.Penal Code § 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 followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

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

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

(3) 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, thumbdrive, or any other computer hardware or media.

(5) As used in this subdivision, “sexual conduct” means any of the following:
(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.
(B) Penetration of the vagina or rectum by any object.
(C) Masturbation for the purpose of sexual stimulation of the viewer.
(D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
(E) Exhibition of the genitals, pubic, or rectal areas of 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. An internal policy shall not direct an employee to allow his or her supervisor to file or process a mandated report under any circumstances.

(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. Supervisors, administrators and other mandated reporters; failure to report or impeding or inhibiting report of suspected child abuse or neglect; violations and penalties.
Cal.Penal Code § 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. Pilot program for Internet-based reporting of child abuse and neglect.
Ca. Pen. Code §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. Reporting of emotional damage to child.
Ca. Pen. Code § 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.

§ 11166.5. Signed statement of knowledge of reporting requirements.
Ca. Pen. Code § 11166.5

(a) 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 (30) 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. 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.

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 (30) 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 (37) 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. Report; contents; confidentiality of identity of persons reporting.
Cal.Penal Code § 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. Confidentiality of reports; disclosure.

(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, as specified in paragraph (4) of subdivision (b) of Section 11170, when an individual has applied for a license to operate a community care facility or child day care facility, or for a certificate of approval to operate a certified family home or resource family home, or for employment or presence in a licensed facility, certified family home, or resource family home, or when a complaint alleges child abuse or neglect by a licensee or employee of, or individual approved to be present in, a licensed facility, certified family home, or resource family home.
(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.

§ 11170. Index and records; Completion of investigation; Case disposition.

 wearer Pen. Code § 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, to any county licensing agency that has contracted with the state for the performance of licensing duties, to a county approving resource families pursuant to Section 16519.5 of the Welfare and Institutions Code, 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 or 16519.5 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
(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.

§ 11171. Medical forensic forms, instructions, and examination protocols for victims of child physical abuse or neglect.
Ca. Pen. Code § 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. Medical activities related to reports.
*Cal.Penal Code § 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. Taking of x-rays without parental consent.
*Cal.Penal Code § 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. Immunity from liability; liability for false reports; attorney fees; failure to report.
Cal.Penal Code § 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 Department of General Services 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 Department of General Services 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.

§ 1596.8662. Administration of child day care licensing; Guidance regarding detecting and reporting child abuse and neglect.
Ca. Health and Saf. Code § 1596.8662

(a) The department shall do all of the following:

1. Make information available to all licensed child day care providers, administrators, and employees of licensed child day care facilities regarding detecting and reporting child abuse and neglect.

2. Provide training including statewide guidance on the responsibilities of a mandated reporter who is a licensed day care provider or an applicant for that license, administrator, or employee of a licensed child day care facility in accordance with the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). The department shall provide the guidance using its free module or modules provided on the State Department of Social Services Internet Web site or as otherwise specified by the department. This guidance content shall include, but is not necessarily limited to, all of the following:

   A. Information on the identification of child abuse and neglect, including behavioral signs of abuse and neglect.

   B. Reporting requirements for child abuse and neglect, including guidelines on how to make a suspected child abuse report when suspected abuse or neglect takes place outside a child day care facility, or within a child day care facility, and to which enforcement agency or agencies a report is required to be made.

   C. Information that failure to report an incident of known or reasonably suspected child abuse or neglect, as required by Section 11166 of the Penal Code, is 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.

   D. Information that mandated reporting duties are individual and no supervisor or administrator may impede or inhibit reporting duties, and no person making a report shall be subject to any sanction for making the report, pursuant to paragraph (1) of subdivision (i) of Section 11166 of the Penal Code. A supervisor or administrator who impedes or inhibits the duties of a mandated reporter shall be subject to punishment pursuant to Section 11166.01 of the Penal Code.

   E. Information on childhood stages of development in order to help distinguish whether a child's behavior or physical symptoms are within range for his or her age and ability, or are signs of abuse or neglect.

3. The department shall provide training, including information about child safety and maltreatment prevention using its free training module or modules specified in paragraph (2), or as otherwise specified by the department. This information shall include, but is not necessarily limited to, all of the following:

   A. Information on protective factors that may help prevent abuse, including dangers of shaking a child, safe sleep practices, psychological effects of repeated exposure to domestic violence, safe and age-appropriate forms of discipline, how to promote a child's social and emotional health, and how to support positive parent-child relationships.

   B. Information on recognizing risk factors that may lead to abuse, such as stress and social isolation, and available resources to which
a family may be referred to help prevent child abuse and neglect.  
(C) When to call for emergency medical attention to prevent further injury or death.  
(D) Information on how a licensed child day care provider, administrator, or employee of a licensed child day care facility might communicate with a family before and after making a suspected child abuse report.  

(4) The department shall comply with the Dymally-Alatorre Bilingual Services Act of 1973 (Chapter 17.5 (commencing with Section 7290) of the Government Code), which includes, among alternative communication options, providing the same type of training materials in any non-English language spoken by a substantial number of members of the public whom the department serves.  

(b)  
(1) On or before March 30, 2018, a person who, on January 1, 2018, is a licensed child day care provider, administrator, or employee of a licensed child day care facility shall complete the mandated reporter training provided pursuant to paragraphs (2) and (3) of subdivision (a), and shall complete renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training.  
(2) On and after January 1, 2018, a person who applies for a license to be a provider of a child day care facility shall complete the mandated reporter training provided pursuant to paragraphs (2) and (3) of subdivision (a) as a precondition to licensure and shall complete renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training.  
(3) On and after January 1, 2018, a person who becomes an administrator or employee of a licensed child day care facility shall complete the mandated reporter training provided pursuant to paragraphs (2) and (3) of subdivision (a) within the first 90 days that he or she is employed at the facility and shall complete renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training.  
(4) The licensee of a licensed child day care facility shall obtain proof from an administrator or employee of the facility that the person has completed mandated reporter training in compliance with this subdivision.  
(5) A licensed child day care provider, administrator, or employee of a licensed child day care facility who does not use the online training module provided by the department shall report to, and obtain approval from, the department regarding the training that person shall use in lieu of the online training module.  

c) Current proof of completion for each licensed child day care provider or applicant for that license, administrator, and employee of a licensed child day care facility shall be submitted to the department upon inspection of the child day care or upon request by the department.  

d)  
(1) The department shall issue a notice of deficiency at the time of a site visit to the licensee of a licensed child day care facility who is not in compliance with this section. The licensee shall, at the time the department issues the notice of deficiency, develop a plan to correct the deficiency within 45 days.  
(2) A deficiency under this subdivision is not subject to Section 1596.890.  

e) A licensed child day care provider or applicant for that license, an administrator, or employee of a licensed child care facility is exempt from the detecting and reporting child abuse training if he or she has limited English proficiency and training is not made available in his or her primary language.
(f) This section shall become operative on January 1, 2018.

§ 16206. Child welfare training program.
Ca. Welf. and Inst. Code § 16206

(a) The purpose of the program is to develop and implement statewide coordinated training programs designed specifically to meet the needs of county child protective services social workers assigned emergency response, family maintenance, family reunification, permanent placement, and adoption responsibilities. It is the intent of the Legislature that the program include training for other agencies under contract with county welfare departments to provide child welfare services. In addition, the program shall provide training programs for persons defined as a mandated reporter pursuant to the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). The program shall provide the services required in this section to the extent possible within the total allocation. If allocations are insufficient, the department, in consultation with the grantee or grantees and the Child Welfare Training Advisory Board, shall prioritize the efforts of the program, giving primary attention to the most urgently needed services. County child protective services social workers assigned emergency response responsibilities shall receive first priority for training pursuant to this section.

(b) The training program shall provide practice-relevant training for mandated child abuse reporters and all members of the child welfare delivery system that will address critical issues affecting the well-being of children, and shall develop curriculum materials and training resources for use in meeting staff development needs of mandated child abuse reporters and child welfare personnel in public and private agency settings.

(c) The training provided pursuant to this section shall include all of the following:
   (1) Crisis intervention.
   (2) Investigative techniques.
   (3) Rules of evidence.
   (4) Indicators of abuse and neglect.
   (5) Assessment criteria, including the application of guidelines for assessment of relatives for placement according to the criteria described in Section 361.3.
   (6) Intervention strategies.
   (7) Legal requirements of child protection, including requirements of child abuse reporting laws.
   (8) Case management.
   (9) Use of community resources.
   (10) Information regarding the dynamics and effects of domestic violence upon families and children, including indicators and dynamics of teen dating violence.
   (12) The importance of maintaining relationships with individuals who are important to a child in out-of-home placement, including methods to identify those individuals, consistent with the child’s best interests, including, but not limited to, asking the child about individuals who are important, and ways to maintain and support those relationships.
   (13) The legal duties of a child protective services social worker, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment.
   (14) The information described in subdivision (d) of Section 16501.4.
   (15) The information described in subdivision (i) of Section 16521.5. The
program may use the curriculum created pursuant to subdivision (h), and described in subdivision (i), of Section 16521.5.

(d) The training provided pursuant to this section may also include any or all of the following:
   (1) Child development and parenting.
   (2) Intake, interviewing, and initial assessment.
   (3) Casework and treatment.
   (4) Medical aspects of child abuse and neglect.

(e) The training program in each county shall assess the program’s performance at least annually and forward it to the State Department of Social Services for an evaluation. The assessment shall include, at a minimum, all of the following:
   (1) Workforce data, including education, qualifications, and demographics.
   (2) The number of persons trained.
   (3) The type of training provided.
   (4) The degree to which the training is perceived by participants as useful in practice.
   (5) Any additional information or data deemed necessary by the department for reporting, oversight, and monitoring purposes.

(f) The training program shall provide practice-relevant training to county child protective services social workers who screen referrals for child abuse or neglect and for all workers assigned to provide emergency response, family maintenance, family reunification, and permanent placement services. The training shall be developed in consultation with the Child Welfare Training Advisory Board and domestic violence victims’ advocates and other public and private agencies that provide programs for victims of domestic violence or programs of intervention for perpetrators.

§ 33133.5. Duties of Superintendent of public instruction; Creating poster showing numbers to call to report child abuse or neglect.
Ca. Educ. Code 33133.5

(a) The Superintendent shall create a poster that notifies children of the appropriate telephone number to call to report child abuse or neglect.

(b) The Superintendent may partner with other local, state, and federal agencies as well as nonprofit entities for purposes of the design and content of the poster.

(c) The poster shall incorporate the additional following elements:
   (1) It shall include a note that directs a child to dial “911” in case of emergency.
   (2) It shall be no smaller than 8.5 inches by 11 inches.
   (3) It shall be produced in five languages, which shall be English, Spanish, and the top three languages other than English and Spanish that are spoken in the state as determined by the Superintendent.

(d) On or before July 1, 2017, the Superintendent shall post on the department's Internet Web site all five versions of the poster for public download.

(e) The Legislature encourages school districts, charter schools, and private schools to post the appropriate version or versions of the poster in an area of the school where pupils frequently congregate.

§ 44691. Elementary and secondary education; Staff Development in the detection of child abuse and neglect.
Ca. Educ. Code § 44691
(a) The State Department of Education, in consultation with the Office of Child Abuse Prevention in the State Department of Social Services, shall do all of the following:

1. Develop and disseminate information to all school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools, and their school personnel in California, regarding the detection and reporting of child abuse.
2. Provide statewide guidance on the responsibilities of mandated reporters who are school personnel in accordance with the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). This guidance shall include, but not necessarily be limited to, both of the following:
   A. Information on the identification of child abuse and neglect.
   B. Reporting requirements for child abuse and neglect.
3. Develop appropriate means of instructing school personnel in the detection of child abuse and neglect and the proper action that school personnel should take in suspected cases of child abuse and neglect, including, but not limited to, an online training module to be provided by the State Department of Social Services.
4. Establish best practices for school personnel to prevent abuse, including sexual abuse, of children on school grounds, by school personnel, or in school-sponsored programs, and post on the department's Internet Web site links to existing training resources.

(b) School districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall do both of the following:

1. Provide annual training, using the online training module provided by the State Department of Social Services or as provided in subdivision (c), to their employees and persons working on their behalf who are mandated reporters, as defined in Section 11165.7 of the Penal Code, pursuant to this section and subdivision (d) of Section 11165.7 of the Penal Code on the mandated reporting requirements. Mandated reporter training shall be provided to school personnel hired during the course of the school year. This training shall include information that failure to report an incident of known or reasonably suspected child abuse or neglect, as required by Section 11166 of the Penal Code, is 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.
2. Develop a process for all persons required to receive training pursuant to this section to provide proof of completing the training within the first six weeks of each school year or within the first six weeks of that person's employment. The process developed under this paragraph may include, but not necessarily be limited to, the use of a sign-in sheet or the submission of a certificate of completion to the applicable governing board or body of the school district, county office of education, state special school and diagnostic center, or charter school.

(c) School districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools that do not use the online training module provided by the State Department of Social Services shall report to the State Department of Education the training being used in its place.

(d) School districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools are encouraged to participate in training on the prevention of abuse, including sexual abuse, of children on school grounds, by school personnel, or in school-sponsored
programs, and are also encouraged to provide all school employees with that training at least once every three years.

§ 28. Board of psychology and board of behavioral sciences; Training regarding assessment and reporting of child, elder, and dependent adult abuse.

Ca. Bus. and Prof. Code § 28

(a) The Legislature finds that there is a need to ensure that professionals of the healing arts who have demonstrable contact with victims and potential victims of child, elder, and dependent adult abuse, and abusers and potential abusers of children, elders, and dependent adults are provided with adequate and appropriate training regarding the assessment and reporting of child, elder, and dependent adult abuse that will ameliorate, reduce, and eliminate the trauma of abuse and neglect and ensure the reporting of abuse in a timely manner to prevent additional occurrences.

(b) The Board of Psychology and the Board of Behavioral Sciences shall establish required training in the area of child abuse assessment and reporting for all persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist. This training shall be required one time only for all persons applying for initial licensure or for licensure renewal.

(c) All persons applying for initial licensure or renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist shall, in addition to all other requirements for licensure or renewal, have completed coursework or training in child abuse assessment and reporting that meets the requirements of this section, including detailed knowledge of the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). The training shall meet all of the following requirements:

(1) Be obtained from one of the following sources:
   (A) An accredited or approved educational institution, as defined in Sections 2902, 4980.36, 4980.37, 4996.18, and 4999.12, including extension courses offered by those institutions.
   (B) A continuing education provider as specified by the responsible board by regulation.
   (C) A course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved or accepted by the responsible board.

(2) Have a minimum of seven contact hours.

(3) Include the study of the assessment and method of reporting of sexual assault, neglect, severe neglect, general neglect, willful cruelty or unjustifiable punishment, corporal punishment or injury, and abuse in out-of-home care. The training shall also include physical and behavioral indicators of abuse, crisis counseling techniques, community resources, rights and responsibilities of reporting, consequences of failure to report, caring for a child’s needs after a report is made, sensitivity to previously abused children and adults, and implications and methods of treatment for children and adults.

(4) An applicant shall provide the appropriate board with documentation of completion of the required child abuse training.

(d) The Board of Psychology and the Board of Behavioral Sciences shall exempt an applicant who applies for an exemption from this section and who shows to the satisfaction of the board that there would be no need for the training in his or her
practice because of the nature of that practice.

(e) It is the intent of the Legislature that a person licensed as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist have minimal but appropriate training in the areas of child, elder, and dependent adult abuse assessment and reporting. It is not intended that, by solely complying with this section, a practitioner is fully trained in the subject of treatment of child, elder, and dependent adult abuse victims and abusers.

(f) The Board of Psychology and the Board of Behavioral Sciences are encouraged to include coursework regarding the assessment and reporting of elder and dependent adult abuse in the required training on aging and long-term care issues prior to licensure or license renewal.
§ 19-3-304. Persons required to report child abuse or neglect.

Colo. Rev. Stat. § 19-3-304

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

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

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

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

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

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

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

(a) Physician or surgeon, including a physician in training;
(b) Child health associate;
(c) Medical examiner or coroner;
(d) Dentist;
(e) Osteopath;
(f) Optometrist;
(g) Chiropractor;
(h) Podiatrist;
(i) Registered nurse or licensed practical nurse;
(j) Hospital personnel engaged in the admission, care, or treatment of patients;
(k) Christian science practitioner;
(l) Public or private school official or employee;
(m) Social worker or worker in any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.;
(n) Mental health professional;
(o) Dental hygienist;
(p) Psychologist;
(q) Physical therapist;
(r) Veterinarian;
(s) Peace officer as described in section 16-2.5-101, C.R.S.;
(t) Pharmacist;
(u) Commercial film and photographic print processor as provided in subsection (2.5) of this section;
(v) Firefighter as defined in section 18-3-201(1), C.R.S.;
(w) Victim's advocate, as defined in section 13-90-107(1)(k)(II), C.R.S.
(x) Licensed professional counselors;
(y) Licensed marriage and family therapists;
(z) Registered psychotherapists;
(aa) 
(I) Clergy member.
(II) The provisions of this paragraph (aa) shall not apply to a person who acquires reasonable cause to know or suspect that a child has been subjected to abuse or neglect during a communication about which the person may not be examined as a witness pursuant to section 13-90-107(1)(c), C.R.S., unless the person also acquires such reasonable cause from a source other than such a communication.
(III) For purposes of this paragraph (aa), unless the context otherwise requires, “clergy member” means a priest, rabbi, duly ordained, commissioned, or licensed minister of a church, member of a religious order, or recognized leader of any religious body.
(bb) Registered dietitian who holds a certificate through the commission on dietetic registration and who is otherwise prohibited by 7 CFR 246.26 from making a report absent a state law requiring the release of this information;
(cc) Worker in the state department of human services;
(dd) Juvenile parole and probation officers;
(ee) Child and family investigators, as described in section 14-10-116.5, C.R.S.;
(ff) Officers and agents of the state bureau of animal protection, and animal control officers;
(gg) The child protection ombudsman as created in article 3.3 of this title
(hh) Educator providing services through a federal special supplemental nutrition program for women, infants, and children, as provided for in 42 U.S.C. sec. 1786.
(ii) Director, coach, assistant coach, or athletic program personnel employed by a private sports organization or program. For purposes of this paragraph (ii), “employed” means that an individual is compensated beyond reimbursement for his or her expenses related to the private sports organization or program.
(jj) Person who is registered as a psychologist candidate pursuant to section 12-43-304 (7), marriage and family therapist candidate pursuant to section 12-43-504 (5), or licensed professional counselor candidate pursuant to section 12-43-603 (5), or who is described in section 12-43-215;
(kk) Emergency medical service providers, as defined in sections 25-3.5-103 (8) and 25-3.5-103 (12) and certified pursuant to part 2 of article 3.5 of title 25; and
(ll) Officials or employees of departments of health, human services, or social services.
(mm) Naturopathic doctor registered under article 37.3 of title 12.

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

(3) In addition to those persons specifically required by this section to report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in abuse or neglect, any other person may report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in child abuse or neglect to the local law enforcement agency or the county department.
(3.5) No person, including a person specified in subsection (1) of this section, shall knowingly make a false report of abuse or neglect to a county department or local law enforcement agency.

(4) Any person who willfully violates the provisions of subsection (1) of this section or who violates the provisions of subsection (3.5) of this section:
   (a) Commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.;
   (b) Shall be liable for damages proximately caused thereby.

§ 19-3-305. Required report of postmortem investigation.
Colo. Rev. Stat. § 19-3-305

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

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

§ 19-3-306. Evidence of abuse - color photographs and X rays.
Colo. Rev. Stat § 19-3-306

(1) Any child health associate, person licensed to practice medicine in this state, registered nurse or licensed practical nurse, hospital personnel engaged in the admission, examination, care, or treatment of patients, medical examiner, coroner, social worker, psychologist, or local law enforcement officer who has before him a child he reasonably believes has been abused or neglected may take or cause to be taken color photographs of the areas of trauma visible on the child. If medically indicated, such person may take or cause to be taken X rays of the child.

(2) Copies or duplicate originals of any color photographs which show evidence of child abuse shall be immediately forwarded to the county department or to the local law enforcement agency. Original photographs shall be made available upon the request of such department or agency. X rays which show evidence of child abuse or copies of the X-ray report, or both, shall be made available upon request to the county department or the local law enforcement agency. Any person who forwards original photographs or X rays pursuant to this section shall maintain copies or duplicate originals thereof.

§ 19-3-307. Reporting procedures.
Colo. Rev. Stat Ann. § 19-3-307

(1) Reports of known or suspected child abuse or neglect made pursuant to this article shall be made immediately to the county department, the local law enforcement agency, or through the child abuse reporting hotline system as set forth in section 26-5-111, C.R.S., and shall be followed promptly by a written report prepared by those persons required to report. The county department shall submit a report of confirmed child abuse or neglect within sixty days of receipt of the report to the state department in a manner prescribed by the state department.

(2) Reports of known or suspected child abuse or neglect made pursuant to this
article 3 must include the following information whenever possible:

(a) The name, address, age, sex, and race of the child;
(b) The name and address of the person responsible for the suspected abuse or neglect;
(c) The nature and extent of the child's injuries, including any evidence of previous cases of known or suspected abuse or neglect of the child or the child's siblings;
(d) The names and addresses of the persons responsible for the suspected abuse or neglect, if known;
(e) The family composition;
(f) The source of the report and the name, address, and occupation of the person making the report;
(g) Any action taken by the reporting source;
(h) Any other information that the person making the report believes may be helpful in furthering the purposes of this part 3;
(i) The military affiliation of the individual who has custody or control of the child who is the subject of the investigation of child abuse or neglect, if such individual is a member of the armed forces or a spouse, or a significant other or family member residing in the home of the member of the armed forces. This information shall be shared with the appropriate military installation authorities pursuant to the requirements set forth in sections 19-1-303 (2.6) and 19-1-307 (2)(w).

(2.5) Notwithstanding the requirements set forth in subsection (2) of this section, any officer or employee of a county, district, or municipal public health agency or state department of public health and environment who makes a report pursuant to section 25-1-122 (4)(d) or 25-4-405, C.R.S., shall include only the information described in said section.

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

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

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

§ 19-3-309. Immunity from liability - persons reporting.


Any person, other than the perpetrator, complicitor, coconspirator, or accessory, participating in good faith in the making of a report, in the facilitation of the investigation of such a report, or in a judicial proceeding held pursuant to this title, the taking of photographs or X rays, or the placing in temporary protective custody of a child pursuant to section 19-3-405 or otherwise performing his duties or acting pursuant to this part 3 shall be immune from any liability, civil or criminal, or termination of employment that otherwise might result by reason of such acts of participation, unless a court of competent jurisdiction determines that such person's behavior was willful, wanton, and malicious. For the purpose of any proceedings, civil or criminal, the good faith of any such person reporting child abuse, any such person taking photographs or X rays, and any such person who has legal authority to place a child in protective custody shall be presumed.
§ 19-3-311. Evidence not privileged.

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

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

§ 6-2.7-102. Internet evidence for law enforcement - preserve and release evidence - reports - training materials.
Colo. Rev. Stat. § 6-2.7-102

(1) An internet access provider, upon the request of a law enforcement agency, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other legal process. The internet access provider shall comply with the request as soon as possible following receipt.

(b) Records referred to in paragraph (a) of this subsection (1) shall be retained for a period of ninety days, which shall be extended for an additional ninety-day period upon a renewed request by the law enforcement agency.

(2) An internet access provider shall release evidence regarding all categories of information identified in 18 U.S.C. sec. 2703 (c) (2) that are in its possession within ten days after receiving a court order requiring the internet access provider to release such evidence to law enforcement. If the internet access provider demonstrates to the requesting law enforcement agency within five days of the request that, for bona fide technical reasons, it cannot comply with the order within ten days of the request, it shall make every reasonable effort to comply with the request as soon as reasonably possible.

(b) In connection with any criminal investigation regarding possible sex offenses involving a child under section 18-1.3-1003, C.R.S., that involves immediate danger of death or serious bodily harm, a law enforcement agency in this state may issue a request, without compulsory legal process or court order, to a designated recipient of the internet access provider to disclose, consistent with 18 U.S.C. sec. 2702 (c) (4), the information identified in paragraph (a) of this subsection (2). The internet access provider shall comply with the request immediately and without delay, or if unable to immediately comply, communicate with the requesting agency to discuss the nature of the request and to coordinate a timely response.

(3) An internet access provider doing business in this state shall report incidents of apparent child pornography to the national center for missing and exploited children pursuant to 42 U.S.C. sec. 13032. The report shall include, if available, the subscriber's city and state or zip code.
(4) Each internet access provider with more than fifteen thousand subscribers who are residents of this state shall, upon request of the attorney general, provide training materials to law enforcement agencies in this state regarding best practices for investigating internet-related crimes involving sexual exploitation of children, the internet access provider's law enforcement compliance practices, and contact information for the internet access provider and its designated recipient for law enforcement requests.

(5) Subsections (1) and (2) of this section shall be interpreted consistent with the requirements of federal law that apply to internet access providers, including but not limited to 18 U.S.C. 2701 et seq. and 42 U.S.C. 13032.
§ 17a-28. (Formerly Sec. 17-431). Definitions. Confidentiality and access to records; exceptions. Procedure for aggrieved persons.


(a) As used in this section:

(1) “Person” means (A) any individual named in a record, maintained by the department, who (i) is presently or at any prior time was a ward of or committed to the commissioner for any reason; (ii) otherwise received services, voluntarily or involuntarily, from the department; or (iii) is presently or was at any prior time the subject of an investigation by the department; (B) a parent whose parental rights have not been terminated or current guardian of an individual described in subparagraph (A) of this subdivision, if such individual is a minor; or (C) the authorized representative of an individual described in subparagraph (A) of this subdivision, if such individual is deceased;

(2) “Attorney” means the licensed attorney authorized to assert the confidentiality of or right of access to records of a person;

(3) “Authorized representative” means a parent, guardian, guardian ad litem, attorney, conservator or other individual authorized to assert the confidentiality of or right of access to records of a person;

(4) “Consent” means permission given in writing by a person, such person’s attorney or authorized representative to disclose specified information, within a limited time period, regarding the person to specifically identified individuals or entities;

(5) “Records” means information created or obtained in connection with the department’s child protection activities or other activities related to a child while in the care or custody of the department, including information in the registry of reports to be maintained by the commissioner pursuant to section 17a-101k;

(6) “Disclose” means (A) to provide an oral summary of records maintained by the department to an individual, agency, corporation or organization, or (B) to allow an individual, agency, corporation or organization to review or obtain copies of such records in whole, part or summary form;

(7) “Near fatality” means an act that places a child in serious or critical condition.

(b) Notwithstanding the provisions of section 1-210, 1-211 or 1-213, records maintained by the department shall be confidential and shall not be disclosed, unless the department receives written consent from the person or as provided in this section, section 17a-101g or section 17a-101k. Any unauthorized disclosure shall be punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both. Any employee of the department who in the ordinary course of such person’s employment has reasonable cause to suspect or believe that another employee has engaged in the unauthorized disclosure of records shall report in writing such unauthorized disclosure of records to the commissioner. The report shall include the name of the person disclosing the information and the nature of the information disclosed and to whom it was disclosed, if known.

(c) Records that (1) contain privileged communications, or (2) are confidential pursuant to any federal law or regulation shall not be disclosed except as authorized by law.

(d) Any information disclosed from a person’s record shall not be further disclosed to another individual or entity without the written consent of the person, except (1) pursuant to section 19a-80 or 19a-80f, provided such disclosure is otherwise permitted pursuant to subsections (b) and (c) of this section, (2) pursuant to the order of a court of competent jurisdiction, or (3) as otherwise provided by law.

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(e) The commissioner shall, upon written request, disclose the following information concerning agencies licensed by the Department of Children and Families, except foster care parents, relatives of the child who are licensed to provide foster care or prospective adoptive families: (1) The name of the licensee; (2) the date the original license was issued; (3) the current status of the license; (4) whether an agency investigation or review is pending or has been completed; and (5) any licensing action taken by the department at any time during the period such license was issued and the reason for such action, provided disclosure of such information will not jeopardize a pending investigation.

(f) The name of any individual who reports suspected abuse or neglect of a child or youth or cooperates with an investigation of child abuse or neglect shall be kept confidential upon request or upon determination by the department that disclosure of such information may be detrimental to the safety or interests of the individual, except the name of any such individual shall be disclosed pursuant to subparagraph (B) of subdivision (1) of subsection (g) of this section to (1) an employee of the department for reasons reasonably related to the business of the department; (2) a law enforcement officer for purposes of investigating (A) abuse or neglect of a child or youth, or (B) an allegation that such individual falsely reported the suspected abuse or neglect of a child or youth; (3) a state's attorney for purposes of investigating or prosecuting (A) abuse or neglect of a child or youth, or (B) an allegation that such individual falsely reported the suspected abuse or neglect of a child or youth; (4) an assistant attorney general or other legal counsel representing the department; (5) a judge of the Superior Court and all necessary parties in a court proceeding pursuant to section 17a-112 or 46b-129, or a criminal prosecution involving child abuse or neglect; (6) a state child care licensing agency; or (7) the executive director of any institution, school or facility or superintendent of schools pursuant to section 17a-101i.

(g) The department shall disclose records, subject to subsections (b) and (c) of this section, without the consent of the person who is the subject of the record, to:

(1) The person named in the record or such person's authorized representative, provided such disclosure shall be limited to information (A) contained in the record about such person or about such person's biological or adoptive minor child, if such person's parental rights to such child have not been terminated; and (B) identifying an individual who reported abuse or neglect of the person, including any tape recording of an oral report pursuant to section 17a-103, if a court determines that there is reasonable cause to believe the reporter knowingly made a false report or that the interests of justice require disclosure;

(2) An employee of the department for any purpose reasonably related to the performance of such employee's duties;

(3) A guardian ad litem or attorney appointed to represent a child or youth in litigation affecting the best interests of the child or youth;

(4) The Attorney General, any assistant attorney general or any other legal counsel retained to represent the department during the course of a legal proceeding involving the department or an employee of the department;

(5) The Child Advocate or the Child Advocate's designee;

(6) The Chief Public Defender or the Chief Public Defender's designee for purposes of ensuring competent representation by the attorneys with whom the Chief Public Defender contracts to provide legal and guardian ad litem services to the subjects of such records and for ensuring accurate payments for services rendered by such attorneys;

(7) The Chief State's Attorney or the Chief State's Attorney's designee for purposes of investigating or prosecuting (A) an allegation related to child abuse or neglect, (B) an allegation that an individual made a false report of suspected child abuse or neglect, or (C) an allegation that a mandated reporter failed to report suspected child abuse or neglect in accordance with
section 17a-101a, provided such prosecuting authority shall have access to records of a child charged with the commission of a delinquent act, who is not being charged with an offense related to child abuse, only while the case is being prosecuted and after obtaining a release;

(8) A state or federal law enforcement officer for purposes of investigating:
(A) an allegation related to child abuse or neglect,
(B) an allegation that an individual made a false report of suspected child abuse or neglect, or
(C) an allegation that a mandated reporter failed to report suspected child abuse or neglect in accordance with section 17a-101a;

(9) A foster or prospective adoptive parent, if the records pertain to a child or youth currently placed with the foster or prospective adoptive parent, or a child or youth being considered for placement with the foster or prospective adoptive parent, and the records are necessary to address the social, medical, psychological or educational needs of the child or youth, provided no information identifying a biological parent is disclosed without the permission of such biological parent;

(10) The Governor, when requested in writing in the course of the Governor's official functions, the Legislative Program Review and Investigations Committee, the joint standing committee of the General Assembly having cognizance of matters relating to human services, the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary or the joint standing committee of the General Assembly having cognizance of matters relating to children, when requested in writing by any of such committees in the course of such committee's official functions, and upon a majority vote of such committee, provided no name or other identifying information is disclosed unless such information is essential to the gubernatorial or legislative purpose;

(11) The Office of Early Childhood for the purpose of:
(A) determining the suitability of a person to care for children in a facility licensed pursuant to section 19a-77, 19a-80 or 19a-87b;
(B) determining the suitability of such person for licensure;
(C) an investigation conducted pursuant to section 19a-80f;
(D) notifying the office when the Department of Children and Families places an individual licensed or certified by the office on the child abuse and neglect registry pursuant to section 17a-101k; or
(E) notifying the office when the Department of Children and Families possesses information regarding an office regulatory violation committed by an individual licensed or certified by the office;

(12) The Department of Developmental Services, to allow said department to determine eligibility, facilitate enrollment and plan for the provision of services to a child who is a client of said department and who is applying to enroll in or is enrolled in said department's behavioral services program. At the time that a parent or guardian completes an application for enrollment of a child in the Department of Developmental Services' behavioral services program, or at the time that said department updates a child's annual individualized plan of care, said department shall notify such parent or guardian that the Department of Children and Families may provide records to the Department of Developmental Services for the purposes specified in this subdivision without the consent of such parent or guardian;

(13) Any individual or entity for the purposes of identifying resources that will promote the permanency plan of a child or youth approved by the court pursuant to sections 17a-11, 17a-111b, 46b-129 and 46b-141;

(14) A state agency that licenses or certifies an individual to educate or care for children or youth;

(15) A judge or employee of a Probate Court who requires access to such records in order to perform such judge's or employee's official duties;

(16) A judge of the Superior Court for purposes of determining the appropriate disposition of a child convicted as delinquent or a child who is a member of a family with service needs;
(17) A judge of the Superior Court in a criminal prosecution for purposes of in camera inspection whenever (A) the court has ordered that the record be provided to the court; or (B) a party to the proceeding has issued a subpoena for the record;

(18) A judge of the Superior Court and all necessary parties in a family violence proceeding when such records concern family violence with respect to the child who is the subject of the proceeding or the parent of such child who is the subject of the proceeding;

(19) The Auditors of Public Accounts, or their representative, provided no information identifying the subject of the record is disclosed unless such information is essential to an audit conducted pursuant to section 2-90;

(20) A local or regional board of education, provided the records are limited to educational records created or obtained by the state or Connecticut Unified School District #2, established pursuant to section 17a-37;

(21) The superintendent of schools for any school district for the purpose of determining the suitability of a person to be employed by the local or regional board of education for such school district pursuant to subsection (a) of section 10-221d;

(22) The Department of Motor Vehicles for the purpose of criminal history records checks pursuant to subsection (e) of section 14-44, provided information disclosed pursuant to this subdivision shall be limited to information included on the Department of Children and Families child abuse and neglect registry established pursuant to section 17a-101k, subject to the provisions of sections 17a-101g and 17a-101k concerning the nondisclosure of findings of responsibility for abuse and neglect;

(23) The Department of Mental Health and Addiction Services for the purpose of treatment planning for young adults who have transitioned from the care of the Department of Children and Families;

(24) The superintendent of a public school district or the executive director or other head of a public or private institution for children providing care for children or a private school (A) pursuant to sections 17a-11, 17a-101b, 17a-101c, 17a-101i, 17a-111b, 46b-129 and 46b-141, or (B) when the Department of Children and Families places an individual employed by such institution or school on the child abuse and neglect registry pursuant to section 17a-101k;

(25) The Department of Social Services for the purpose of (A) determining the suitability of a person for payment from the Department of Social Services for providing child care; (B) promoting the health, safety and welfare of a child or youth receiving services from either department; or (C) investigating allegations of fraud provided no information identifying the subject of the record is disclosed unless such information is essential to any such investigation;

(26) The Court Support Services Division of the Judicial Branch, to allow the division to determine the supervision and treatment needs of a child or youth, and provide appropriate supervision and treatment services to such child or youth, provided such disclosure shall be limited to information that identifies the child or youth, or a member of such child’s or youth's immediate family, as being or having been (A) committed to the custody of the Commissioner of Children and Families as delinquent, (B) under the supervision of the Commissioner of Children and Families, or (C) enrolled in the voluntary services program operated by the Department of Children and Families;

(27) The Court Support Services Division of the Judicial Branch for the purpose of sharing common case records to track recidivism of juvenile offenders; and

(28) The birth-to-three program's referral intake office for the purpose of (A) determining eligibility of, (B) facilitating enrollment for, and (C) providing services to (i) substantiated victims of child abuse and neglect with
suspected developmental delays, and (ii) newborns impacted by withdrawal symptoms resulting from prenatal drug exposure.

(h) The department may, subject to subsections (b) and (c) of this section, disclose records without the consent of the person who is the subject of the record, to:

(1) An employee or former employee of the department or such employee or former employee's authorized representative for purposes of participating in any court, administrative or disciplinary proceeding, provided such disclosure shall be limited to records that are necessary to the proceeding, as determined by the department;

(2) Multidisciplinary teams, as described in section 17a-106a;

(3) A provider of professional services for a child, youth or parent referred to such provider, provided such disclosure is limited to information necessary to provide services to the child, youth or parent;

(4) An individual or agency under contract with the department for the purposes of identifying and assessing a potential foster or adoptive home for a child or youth, provided no information identifying a biological parent of a child or youth is disclosed without the permission of such biological parent;

(5) A physician examining a child with respect to whom abuse or neglect is suspected and who is authorized pursuant to section 17a-101f to keep the child in the custody of a hospital when such physician requires the information in a record of the department to determine whether to keep the child in protective custody;

(6) An individual who reports child abuse or neglect pursuant to sections 17a-101a to 17a-101c, inclusive, or section 17a-103, who made a report of abuse or neglect, provided the information disclosed is limited to (A) the status of the investigation conducted pursuant to section 17a-101g resulting from the individual's report; and (B) in general terms, the action taken by the department as a result of such investigation;

(7) An individual or organization engaged in the business of medical, psychological or psychiatric diagnosis and treatment and who is treating an individual who has perpetrated abuse or neglect, as determined in an investigation conducted pursuant to section 17a-101g, or who is unwilling or unable to protect a child or youth from abuse or neglect, as determined in an investigation conducted pursuant to section 17a-101g, when the commissioner, or the commissioner's designee, determines that the disclosure is necessary to accomplish the objectives of diagnosis or treatment;

(8) A court or public agency in another state or a federally recognized Indian tribe, that is responsible for investigating child abuse or neglect, preventing child abuse and neglect or providing services to families at risk for child abuse or neglect, for the purpose of such investigation, prevention or providing services to such families;

(9) An individual conducting bona fide research, provided no information identifying the subject of the record is disclosed unless (A) such information is essential to the purpose of the research; and (B) the department has given written approval for the use of such information;

(10) An individual or agency involved in the collection of fees for services, provided such information is limited to the name and address of the person who received the services and the fees for services, except as provided in section 17b-225. In cases where a dispute arises over such fees or claims or where additional information is needed to substantiate the fee or claim, the Department of Children and Families may disclose the following: (A) That the person was, in fact, provided services by the department; (B) the dates and duration of such services; and (C) a general description of the types of services, including evidence that a service or treatment plan exists and has been carried out and evidence to substantiate the necessity for admission and length of stay in an institution or facility;
(11) A law enforcement officer or state's attorney if there is reasonable cause to believe that (A) a child or youth is being abused or neglected or at risk of being abused or neglected as a result of any suspected criminal activity by any individual, or (B) an employee of the department is being threatened or harassed or has been assaulted by a client or coworker;

(12) Any individual interviewed as part of an investigation conducted pursuant to section 17a-101g, who is not otherwise entitled to such information, provided such disclosure is limited to: (A) The general nature of the allegations contained in the reports; (B) the identity of the child or youth alleged to have been abused or neglected; and (C) information necessary to effectively conduct the investigation;

(13) Any individual, when information concerning an incident of child abuse or neglect has been made public or the commissioner reasonably believes publication of such information is likely, provided such disclosure is limited to: (A) Whether the department has received any report in accordance with sections 17a-101a to 17a-101c, inclusive, or section 17a-103; (B) in general terms, any action taken by the department, provided: (i) Names or other individually identifiable information of the child or other family members is not disclosed, regardless of whether such individually identifiable information is otherwise available, and (ii) the name or other individually identifiable information of the person suspected to be responsible for the abuse or neglect is not disclosed unless such person has been arrested for a crime due to such abuse or neglect; (C) confirmation or denial of the accuracy of information that has been made public; and (D) notwithstanding the provisions of section 46b-124, in general terms, the legal status of the case;

(14) Any individual for the purpose of locating such individual's missing parent, child or youth, provided such disclosure is limited to information that assists in locating such missing parent, child or youth;

(15) Any individual, when the information concerns an incident of abuse or neglect that resulted in a child or youth fatality or near fatality of a child or youth, provided disclosure of such information is in general terms and does not jeopardize a pending investigation;

(16) A judge of a court of competent jurisdiction whenever an employee of the department is subpoenaed and ordered to testify about such records for purposes of in camera inspection to determine if such records may be disclosed pursuant to this section if (A) the court has ordered that such records be provided to the court; or (B) a party to the proceeding has issued a subpoena for such records;

(17) An individual who is not employed by the department who arranges, performs or assists in performing functions or activities on behalf of the department, including, but not limited to, data analysis, processing or administration, utilization reviews, quality assurance, practice management, consultation, data aggregation and accreditation services.

(i) Notwithstanding the provisions of subsections (e) to (h), inclusive, of this section, the department may refuse to disclose records to any individual, provided the department gives such individual notice (1) that records are being withheld; (2) of the general nature of the records being withheld; (3) of the department's reason for refusing to disclose the records; and (4) of the individual's right to judicial relief pursuant to subsection (j) of this section.

(j) (1) Any person or individual aggrieved by a violation of subsection (b) or (d), subsections (f) to (h), inclusive, or subsection (k) of this section, or a person's authorized representative, may seek judicial relief in the manner prescribed in section 52-146j.

(2) Any person, individual or authorized representative denied access to records by the commissioner under subdivision (i) of this section may petition the superior court for the venue district provided in section 46b-142 in which the person resides for an order requiring the commissioner to permit access to those records, and the court, after a hearing and an in camera review of the records in question, shall issue such an order.
unless it determines that permitting disclosure of all or any portion of the record (A) would be contrary to the best interests of the person or the person's authorized representative; (B) could reasonably result in the risk of harm to any individual; or (C) would contravene the public policy of the state.

(k) All written records disclosed to an individual who is not the subject of the record, an agency, an entity or an organization shall bear a stamp requiring confidentiality in accordance with the provisions of this section. Such records shall not be disclosed to another individual, agency, entity or an organization without the written consent of the person who is the subject of the record or as provided by this section. A copy of the consent form, specifying to whom and for what specific use the record is disclosed or a statement setting forth any other statutory authorization for disclosure and the limitations imposed on such disclosure, shall accompany the record. In cases where the disclosure is made orally, the individual disclosing the information shall inform the recipient that such information is governed by the provisions of this section.

(l) Whenever any person, attorney or authorized representative, having obtained access to any record, believes there are factually inaccurate entries or materials contained in such record, such person, attorney or authorized representative may add a statement to the record setting forth what such person, attorney or authorized representative believes to be an accurate statement of those facts and such statement shall become a permanent part of the record.

§ 17a-22cc. Professional development training provided to pediatricians and child care providers.

The Office of Early Childhood, in collaboration with the Department of Children and Families, shall provide, to the extent that private, federal or philanthropic funding is available, professional development training to pediatricians and child care providers to help prevent and identify mental, emotional and behavioral health issues in children by utilizing the Infant and Early Childhood Mental Health Competencies, or a similar model, with a focus on maternal depression and its impact on child development.

§ 17a-100b. Training program for animal control officers to identify and report child abuse and neglect.

The Commissioner of Children and Families shall, within available appropriations, make available to all animal control officers training concerning the accurate and prompt identification and reporting of child abuse and neglect.


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

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

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

(d) On or before October 1, 2011, the Department of Children and Families, in consultation with the Department of Education, shall develop a model mandated reporting policy for use by local and regional boards of education. Such policy shall state applicable state law regarding mandated reporting and any relevant information that may assist school districts in the performance of mandated reporting. Such policy shall include, but not be limited to, the following information: (1) Those persons employed by the local or regional board of education who are required pursuant to this section to be mandated reporters, (2) the type of information that is to be reported, (3) the time frame for both written and verbal mandated reports, (4) a statement that the school district may conduct its own investigation into an allegation of abuse or neglect by a school employee, provided such investigation does not impede an investigation by the Department of Children and Families, and (5) a statement that retaliation against mandated reporters is prohibited. Such policy shall be updated and revised as necessary.

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

(a)

(1) Any mandated reporter, as described in section 17a-101, who in the ordinary course of such person's employment or profession has reasonable cause to suspect or believe that any child under the age of eighteen years (A) has been abused or neglected, as described in section 46b-120, (B) has had nonaccidental physical injury, or injury which is at variance with the history given of such injury, inflicted upon such child, or (C) is placed at imminent risk of serious harm, or (2) any school employee, as defined in section 53a-65, who in the ordinary course of such person's employment or profession
has reasonable cause to suspect or believe that any person who is being educated by the technical high school system or a local or regional board of education, other than as part of an adult education program, is a victim under the provisions of section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, and the perpetrator is a school employee shall report or cause a report to be made in accordance with the provisions of sections 17a-101b to 17a-101d, inclusive.

(b)

(1) Any person required to report under the provisions of this section who fails to make such report or fails to make such report within the time period prescribed in sections 17a-101b to 17a-101d, inclusive, and section 17a-103 shall be guilty of a class A misdemeanor, except that such person shall be guilty of a class E felony if (A) such violation is a subsequent violation, (B) such violation was wilful or intentional or due to gross negligence, or (C) such person had actual knowledge that (i) a child was abused or neglected, as described in section 46b-120, or (ii) a person was a victim described in subdivision (2) of subsection (a) of this section.

(2) Any person who intentionally and unreasonably interferes with or prevents the making of a report pursuant to this section, or attempts or conspires to do so, shall be guilty of a class D felony. The provisions of this subdivision shall not apply to any child under the age of eighteen years or any person who is being educated by the technical high school system or a local or regional board of education, other than as part of an adult education program.

(3) Any person found guilty under the provisions of this subsection shall be required to participate in an educational and training program. The program may be provided by one or more private organizations approved by the commissioner, provided the entire cost of the program shall be paid from fees charged to the participants, the amount of which shall be subject to the approval of the commissioner.

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

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

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


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

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

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

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

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

§ 17a-101c. Written report by mandated reporter.

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

§ 17a-101d. Contents of oral and written reports.

All oral and written reports required in sections 17a-101a to 17a-101c, inclusive, and section 17a-103, shall contain, if known:

(1) The names and addresses of the child and his or her parents or other person responsible for his or her care;
(2) the age of the child;
(3) the gender of the child;
(4) the nature and extent of the child’s injury or injuries, maltreatment or neglect;
(5) the approximate date and time the injury or injuries, maltreatment or neglect occurred;
(6) information concerning any previous injury or injuries to, or maltreatment or neglect of, the child or his or her siblings;
(7) the circumstances in which the injury or injuries, maltreatment or neglect came to be known to the reporter;
(8) the name of the person or persons suspected to be responsible for causing such injury or injuries, maltreatment or neglect;
(9) the reasons such person or persons are suspected of causing such injury or injuries, maltreatment or neglect;
(10) any information concerning any prior cases in which such person or persons have been suspected of causing an injury, maltreatment or neglect of a child; and
(11) whatever action, if any, was taken to treat, provide shelter or otherwise assist the child. For purposes of this section, “child” includes any victim described in subdivision (2) of subsection (a) of section 17a-101a.


(a) No employer shall (1) discharge, or in any manner discriminate or retaliate against, any employee who in good faith makes a report pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103, testifies or is about to testify in any proceeding involving child abuse or neglect, or (2) hinder or prevent, or attempt to hinder or prevent, any employee from making a report pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103, or testifying in any proceeding involving child abuse or neglect. The Attorney General may bring an action in Superior Court against an employer who violates this subsection. The court may assess a civil penalty of not more than two thousand five hundred dollars and may order such other equitable relief as the court deems appropriate.

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

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

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


Any physician examining a child with respect to whom abuse or neglect is suspected shall have the right to keep such child in the custody of a hospital for no longer than ninety-six hours in order to perform diagnostic tests and procedures necessary to the detection of child abuse or neglect and to provide necessary medical care with or without the consent of such child’s parents or guardian or other person responsible for the child’s care, provided the physician has made reasonable attempts to (1)
advise such child's parents or guardian or other person responsible for the child's care that he suspects the child has been abused or neglected and (2) obtain consent of such child's parents or guardian or other person responsible for the child's care. In addition, such physician may take or cause to be taken photographs of the area of trauma visible on a child who is the subject of such report without the consent of such child's parents or guardian or other person responsible for the child's care. All such photographs or copies thereof shall be sent to the local police department and the Department of Children and Families. The expenses for such care and such diagnostic tests and procedures, if not covered by insurance, shall be paid by the Commissioner of Children and Families, provided the state may recover such costs from the parent if the parent has been found by a court to have abused or neglected such child.

§ 17a-101h. Coordination of investigatory activities. Interview with child. Reporter to provide information. Consent of parent, guardian or responsible person.

Notwithstanding any provision of the general statutes, any person authorized to conduct an investigation of abuse or neglect shall coordinate investigatory activities in order to minimize the number of interviews of any child and share information with other persons authorized to conduct an investigation of child abuse or neglect, as appropriate. A person reporting child abuse or neglect shall provide any person authorized to conduct an investigation of child abuse or neglect with all information related to the investigation that is in the possession or control of the person reporting child abuse or neglect, except as expressly prohibited by state or federal law. The commissioner shall obtain the consent of parents or guardians or other persons responsible for the care of the child to any interview with a child, except that such consent shall not be required when the department has reason to believe such parent or guardian or other person responsible for the care of the child or member of the child's household is the perpetrator of the alleged abuse or that seeking such consent would place the child at imminent risk of physical harm. If consent is not required to conduct the interview, such interview shall be conducted in the presence of a disinterested adult unless immediate access to the child is necessary to protect the child from imminent risk of physical harm and a disinterested adult is not available after reasonable search. For purposes of this section, “child” includes any victim described in subdivision (2) of subsection (a) of section 17a-101a.

§ 17a-101i. Abuse or neglect by school employee or public or private institution or facility providing care for children. Suspension. Termination or resignation. Prohibition re employment. Notification of state's attorney re conviction. Written policy re mandated reporting. Training programs.

(a) Notwithstanding any provision of the general statutes, not later than five working days after an investigation of a report that a child has been abused or neglected by a school employee, as defined in section 53a-65, or that a person is a victim, as described in subdivision (2) of subsection (a) of section 17a-101a, of a school employee has been completed, the Commissioner of Children and Families shall notify the employing superintendent and the Commissioner of Education of the results of such investigation and shall provide records, whether or not created by the department, concerning such investigation to the superintendent and the Commissioner of Education. The Commissioner of Children and Families shall provide such notice whether or not the child or victim was a student in the employing school or school district. If the Commissioner of Children and Families, based upon the results of the investigation, has reasonable cause to believe that (1) (A) a child
has been abused or neglected, as described in section 46b-120, by such employee, and (B) the commissioner recommends such school employee be placed on the child abuse and neglect registry established pursuant to section 17a-101k, or (2) a person is a victim, as described in subdivision (2) of subsection (a) of section 17a-101a, of such school employee, the superintendent shall suspend such school employee. Such suspension shall be with pay and shall not result in the diminution or termination of benefits to such employee. Not later than seventy-two hours after such suspension the superintendent shall notify the local or regional board of education and the Commissioner of Education, or the commissioner's representative, of the reasons for and conditions of the suspension. The superintendent shall disclose such records to the Commissioner of Education and the local or regional board of education or its attorney for purposes of review of employment status or the status of such employee's certificate, permit or authorization. The suspension of a school employee employed in a position requiring a certificate shall remain in effect until the board of education acts pursuant to the provisions of section 10-151. If the contract of employment of such certified school employee is terminated, or such certified school employee resigns such employment, the superintendent shall notify the Commissioner of Education, or the commissioner's representative, within seventy-two hours after such termination or resignation. Upon receipt of such notice from the superintendent, the Commissioner of Education may commence certification revocation proceedings pursuant to the provisions of subsection (i) of section 10-145b. Notwithstanding the provisions of sections 1-210 and 1-211, information received by the Commissioner of Education, or the commissioner's representative, pursuant to this section shall be confidential subject to regulations adopted by the State Board of Education under section 10-145g. No local or regional board of education shall employ a person whose employment contract is terminated or who resigned from employment following a suspension pursuant to the provisions of this subsection if such person is convicted of a crime involving an act of child abuse or neglect as described in section 46b-120 or a violation of section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a against any person who is being educated by the technical high school system or a local or regional board of education, other than as part of an adult education program.

(b) Not later than five working days after an investigation of a report that a child has been abused or neglected by a staff member of a public or private institution or facility that provides care for children or a private school has been completed, the Commissioner of Children and Families shall notify such staff member's employer at such institution, facility or school, or such employer's designee, of the results of the investigation. If (1) the Commissioner of Children and Families, based upon the results of the investigation, has reasonable cause to believe that a child has been abused or neglected by such staff member, and (2) the commissioner recommends that such staff member be placed on the child abuse and neglect registry established pursuant to section 17a-101k, such institution, facility or school shall suspend such staff person. Such suspension shall be with pay and shall not result in diminution or termination of benefits to such staff person. Such suspension shall remain in effect until the incident of abuse or neglect has been satisfactorily resolved by the employer of the staff person or until an appeal, conducted in accordance with section 17a-101k, has resulted in a finding that such staff person is not responsible for the abuse or neglect or does not pose a risk to the health, safety or well-being of children. If such staff member has a professional license or certificate issued by the state or a permit or authorization issued by the State Board of Education or if such institution, school or facility has a license or approval issued by the state, the commissioner shall forthwith notify the state agency responsible for issuing such license, certificate, permit, approval or authorization to the staff member and provide records, whether or not created by the department, concerning such investigation.

(c) If a school employee, as defined in section 53a-65, or any person holding a certificate, permit or authorization issued by the State Board of Education under the
provisions of sections 10-144o to 10-149, inclusive, is convicted of a crime involving
an act of child abuse or neglect as described in section 46b-120 or a violation of
subdivision (2) of subsection (b) of section 17a-101a or section 53-21, 53a-71 or
53a-73a against any person, or a violation of section 53a-70, 53a-70a, 53a-72a
or 53a-72b against a victim, as described in subdivision (2) of subsection (a) of
section 17a-101a, the state's attorney for the judicial district in which the conviction
occurred shall in writing notify the superintendent of the school district or the
supervisory agent of the nonpublic school in which the person is employed and the
Commissioner of Education of such conviction.

(d) For the purposes of receiving and making reports, notifying and receiving
notification, or investigating, pursuant to the provisions of sections 17a-101a
to 17a-101h, inclusive, and 17a-103, a superintendent of a school district or a
supervisory agent of a nonpublic school may assign a designee to act on such
superintendent's or agent's behalf.

(e) On or before February 1, 2016, each local and regional board of education shall
adopt a written policy, in accordance with the provisions of subsection (d) of section
17a-101, regarding the reporting by school employees, as defined in section 53a-
65, of suspected child abuse or neglect in accordance with sections 17a-101a to
17a-101d, inclusive, and 17a-103 or a violation of section 53-70, 53a-70a, 53a-71,
53a-72a, 53a-72b or 53a-73a against a victim, as described in subdivision (2) of
subsection (a) of section 17a-101i. Such policy shall be distributed annually to all
school employees employed by the local or regional board of education. The local
or regional board of education shall document that all such school employees have
received such written policy and completed the training and refresher training
programs required by subsection (c) of section 17a-101.

(f)

(1) Each school employee, as defined in section 53a-65, hired by a local or
regional board of education on or after July 1, 2011, shall be required to
complete the training program developed pursuant to subsection (c) of
section 17a-101. Each such school employee shall complete the refresher
training program, developed pursuant to subsection (c) of section 17a-101,
not later than three years after completion of the initial training program,
and shall thereafter retake such refresher training course at least once every
three years.

(2) On or before July 1, 2012, each school employee, as defined in section
53a-65, hired by a local or regional board of education before July 1, 2011,
shall complete the refresher training program developed pursuant to
subsection (c) of section 17a-101 and shall thereafter retake such refresher
training course at least once every three years.

(3) The principal for each school under the jurisdiction of a local or regional
board of education shall annually certify to the superintendent for the
board of education that each school employee, as defined in section 53a-
65, working at such school, is in compliance with the provisions of this
subsection. The superintendent shall certify such compliance to the State
Board of Education.

§ 17a-101j. Notification of law enforcement and prosecutorial
authorities when reasonable belief of sexual abuse or serious physical
abuse. Notification of agency responsible for licensure of institution
or facility where abuse or neglect has occurred. Referral of parent or


(a) After the investigation has been completed and the Commissioner of Children
and Families has reasonable cause to believe that sexual abuse or serious physical abuse of a child has occurred, the commissioner shall notify the appropriate local law enforcement authority and the Chief State’s Attorney or the Chief State’s Attorney’s designee or the state’s attorney for the judicial district in which the child resides or in which the abuse or neglect occurred of such belief and shall provide a copy of the report required in sections 17a-101a to 17a-101c, inclusive, and 17a-103.

(b) Whenever a report has been made pursuant to sections 17a-101a to 17a-101c, inclusive, and 17a-103, alleging that abuse or neglect has occurred at an institution or facility that provides care for children and is subject to licensure by the state for the caring of children, and the Commissioner of Children and Families, after investigation, has reasonable cause to believe abuse or neglect has occurred, the commissioner shall forthwith notify the state agency responsible for such licensure of such institution or facility and provide records, whether or not created by the department, concerning such investigation.

(c) If, after the investigation is completed, the commissioner substantiates an allegation of abuse or neglect against an individual who has been appointed guardian of a child by the Probate Court, the commissioner shall notify the Probate Court of such substantiation.

(d) If, after the investigation is completed, the commissioner determines that a parent or guardian inflicting abuse or neglecting a child is in need of treatment for substance abuse, the commissioner shall refer such person to appropriate treatment services.

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

§ 17a-101o. School employee failure or delay in reporting child abuse or neglect. Policy re delayed report by mandated reporters.


(a) If the Commissioner of Children and Families suspects or knows that a mandated reporter, as defined in section 17a-101, employed by a local or regional board of education, has failed to make a report that a child has been abused or neglected or placed in immediate risk of serious harm within the time period prescribed in sections 17a-101a to 17a-101d, inclusive, and section 17a-103, the commissioner shall make a record of such delay and develop and maintain a database of such records. The commissioner shall investigate such delayed reporting. Such investigation shall be conducted in accordance with the policy developed in subsection (b) of this section, and include the actions taken by the employing local or regional board of education or superintendent of schools for the district in response to such employee's failure to report.

(b) The Department of Children and Families shall develop a policy for the investigation of delayed reports by mandated reporters. Such policy shall include, but not be limited to, when referrals to the appropriate law enforcement agency for delayed reporting are required and when the department shall require mandated reporters who have been found to have delayed making a report to participate in the educational and training program pursuant to subsection (b) of section 17a-101a.

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

§ 17a-101p. Reports by persons not designated as mandated reporters. Notice to Commissioner of Education.

When the Commissioner of Children and Families receives a report from a person not designated as a mandated reporter pursuant to section 17a-101 of the general statutes, that such person has reasonable cause to suspect or believe that any child under the age of eighteen years (1) has been abused or neglected, as defined in section 46b-120 of the general statutes, (2) has had nonaccidental physical injury, or injury which is at variance with the history given of such injury, inflicted upon such child, or (3) is placed at imminent risk of serious harm by a school employee, as defined in section 53a-65 of the general statutes, holding a certificate, authorization or permit issued by the State Board of Education under the provisions of sections 10-144o to 10-146b, inclusive, of the general statutes, and section 10-149 of the general statutes, a copy of such report shall be sent by the Commissioner of Children and Families to the Commissioner of Education.


(a) Each birthing hospital shall provide education and training for nurses and other staff who care for high-risk newborns on the roles and responsibilities of such nurses and other staff as mandated reporters of potential child abuse and neglect under section 17a-101.

(b) The Department of Children and Families shall coordinate with the birthing hospitals in the state to disseminate information regarding the procedures for the principal providers of daily direct care of high-risk newborns in birthing hospitals to participate in the discharge planning process and ongoing department functions concerning such newborns.

(c) For purposes of this section, “birthing hospital” means a health care facility, as defined in section 19a-630, operated and maintained in whole or in part for the purpose of caring for women during delivery of a child and for women and their newborns following birth, and “high-risk newborn” means any newborn identified as such under any regulation or policy of the Department of Children and Families.


(a) Any mandated reporter acting outside his professional capacity and any other person having reasonable cause to suspect or believe that any child under the age of eighteen is in danger of being abused, or has been abused or neglected, as defined in section 46b-120, may cause a written or oral report to be made to the Commissioner of Children and Families or his representative or a law enforcement agency. The Commissioner of Children and Families or his representative shall use his best efforts to obtain the name and address of a person who causes a report to be made pursuant to this section. In the case of an oral report, such report shall be recorded on tape and the commissioner or his representative shall announce to the person making such report that such report is being recorded and shall state the penalty for knowingly making a false report of child abuse or neglect under subsection (d) of section 17a-101e.

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

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

§ 31-51m. Protection of employee who discloses employer's illegal activities or unethical practices or reports a suspected incident of child abuse or neglect. Civil action.

(a) As used in this section:
(1) “Person” means one or more individuals, partnerships, associations, corporations, limited liability companies, business trusts, legal representatives or any organized group of persons;
(2) “Employer” means a person engaged in business who has employees, including the state and any political subdivision of the state;
(3) “Employee” means any person engaged in service to an employer in a business of his employer;
(4) “Public body” means
(A) any public agency, as defined in subdivision (1) of section 1-200, or any employee, member or officer thereof, or
(B) any federal agency or any employee, member or officer thereof.

(b) No employer shall discharge, discipline or otherwise penalize any employee because (1) the employee, or a person acting on behalf of the employee, reports, verbally or in writing, a violation or a suspected violation of any state or federal law or regulation or any municipal ordinance or regulation to a public body, (2) the employee is requested by a public body to participate in an investigation, hearing or inquiry held by that public body, or a court action, or (3) the employee reports a suspected incident of child abuse or neglect pursuant to sections 17a-101a to 17a-101d, inclusive, or 17a-103. No municipal employer shall discharge, discipline or otherwise penalize any employee because the employee, or a person acting on behalf of the employee, reports, verbally or in writing, to a public body concerning the unethical practices, mismanagement or abuse of authority by such employer. The provisions of this subsection shall not be applicable when the employee knows that such report is false.

(c) Any employee who is discharged, disciplined or otherwise penalized by his employer in violation of the provisions of subsection (b) may, after exhausting all available administrative remedies, bring a civil action, within ninety days of the date of the final administrative determination or within ninety days of such violation, whichever is later, in the superior court for the judicial district where the violation is alleged to have occurred or where the employer has its principal office, for the reinstatement of his previous job, payment of back wages and reestablishment of employee benefits to which he would have otherwise been entitled if such violation had not occurred. An employee's recovery from any such action shall be limited to such items, provided the court may allow to the prevailing party his costs, together with reasonable attorney’s fees to be taxed by the court. Any employee found to have knowingly made a false report shall be subject to disciplinary action by his employer up to and including dismissal.

(d) This section shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement.
16 § 903 Reports required.  
Del. Code Ann. 16 § 903

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

(b) The Division shall inform any person required to report under this section of the person's right to obtain information concerning the disposition of the report. The Division shall make information on the general disposition of the report available through the Division report line to any person required to report under this section.

16 § 904 Nature and content of report; to whom made.  
Del. Code Ann. 16 § 904

(a) Any report of child abuse or neglect required to be made under this chapter must be made by contacting the Child Abuse and Neglect Report Line for the Department of Services for Children, Youth and Their Families. An immediate oral report must be made by telephone or otherwise. Reports and the contents thereof including a written report, if requested, must be made in accordance with the rules and regulations of the Division, or in accordance with the rules and regulations adopted by the Division. An individual with knowledge of child abuse or neglect or knowledge that leads to a good faith suspicion of child abuse or neglect may not rely on another individual who has less direct knowledge to call the aforementioned report line.

(b) When a written report is made by a person required to report under § 903 of this title, the Division shall contact the person who made such report within 48 hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information, including medical records, which may be relevant to the contents of the report.

(c) When 2 or more persons who are required to report under § 903 of this title have joint knowledge of a known or suspected instance of child abuse or neglect, the telephone report may be made by 1 person with joint knowledge who was selected by mutual agreement of those persons involved. The report must include all persons with joint knowledge of the known or suspected instance of child abuse or neglect at the time the report is made. Any person who has knowledge that the individual who was originally designated to report has failed to do so shall immediately make the report required under § 903 of this title.

16 § 905 Telephone reports, Child Protection Registry and information.  
Del. Code Ann. 16 § 905

(a) The Division shall establish and maintain a 24-hour statewide toll-free telephone report line operating at all times and capable of receiving all reports of alleged abuse and neglect.

(b) The Division shall maintain a Child Protection Registry and an internal information system. The Division shall keep unsubstantiated reports in the internal information system.
(c) Every report of child abuse or neglect made to the Division shall be entered in the Division's internal information system.

(d) Upon receipt of a report on any multidisciplinary case, the Division shall notify the appropriate law-enforcement agency and shall provide a detailed description of the report received. Notwithstanding any provision of the Delaware Code to the contrary, to the extent the law-enforcement agency with primary jurisdiction over the case is unable to assist, the primary law-enforcement agency may request another law-enforcement agency with jurisdiction to exercise such jurisdiction. Upon request, the other law-enforcement agency may exercise such jurisdiction.

(e) Although reports may be made anonymously, the Division shall in all cases, after obtaining relevant information regarding alleged abuse or neglect, request the name and address of any person making a report.

(f) Upon receipt of a report, the Division shall immediately communicate such report to its appropriate Division staff, after a check has been made with the internal information system to determine whether previous reports have been made regarding actual or suspected abuse or neglect of the subject child, or any reports regarding any siblings, family members, or the alleged perpetrator, and such information as may be contained from such previous reports. Such relevant information as may be contained in the internal information system must also be forwarded to the appropriate Division staff.

(g) Upon receipt of a report of death, serious physical injury or sexual abuse, or any other report requested by the Investigation Coordinator, the Division shall notify the Investigation Coordinator of the report, in sufficient detail to permit the Investigation Coordinator to undertake the Investigation Coordinator's duties, as specified in § 906 of this title.

16 § 906. State response to reports of abuse or neglect.
Del. Code Ann. 16 § 906

(a) The State's child protection system shall seek to promote the safety of children and the integrity and preservation of their families by conducting investigations or family assessments in response to reports of child abuse or neglect. The system shall endeavor to coordinate community resources and provide assistance or services to children and families identified to be at risk, and to prevent and remedy child abuse and neglect.

(b) It is the policy of this State that the investigation and disposition of cases involving child abuse or neglect shall be conducted in a comprehensive, integrated, multidisciplinary manner that does all of the following:
   1. Provides civil and criminal protections to the child and the community.
   2. Encourages the use of collaborative decision-making and case management to reduce the number of times a child is interviewed and examined to minimize further trauma to the child.
   3. Provides safety and treatment for a child and his or her family by coordinating a therapeutic services system.
   4. Requires a multidisciplinary team response for all multidisciplinary cases. The State, with assistance from the Child Protection Accountability Commission, shall implement a memorandum of understanding among agencies and entities to ensure implementation of the multidisciplinary response to such cases.

(c) In implementing the Investigation Coordinator's role in the child
protection system, the Investigation Coordinator, or the Investigation Coordinator's staff, shall do all of the following:

a. Have electronic access and the authority to track within the Department's internal information system each reported case of alleged child abuse or neglect.

b. Monitor each case involving the death of, serious physical injury to, or allegations of sexual abuse of a child from inception to final criminal and civil disposition, and provide information as requested on the status of each case to the Division, the Department, the Delaware Department of Justice, a children's advocacy center, and the Office of Child Advocate.

c. Within 5 business days of the receipt of a report concerning allegations of child abuse or neglect by a person known to be licensed or certified by a Delaware agency or professional regulatory organization, forward a report of such allegations to the appropriate Delaware agency or professional regulatory organization.

d. Report every case involving the death or near death of a child due to abuse or neglect to the Department of Justice and the Child Protection Accountability Commission under § 932(a) of this title and every case involving the death of a child to the Child Death Review Commission.

e. Provide information to the Child Protection Accountability Commission (CPAC), as requested by CPAC, regarding the status, trends, and outcomes of any case or cases of child abuse or neglect that are reported to the Division. Reports to CPAC may not disclose the identities of the child, alleged perpetrators, or others involved in the case or cases.

f. Participate as a member of the multidisciplinary team for cases outlined in paragraph (c)(1)b. of this section, and keep the team regularly apprised of the status and findings of the Investigation Coordinator.

(2) All information and records received, prepared, or maintained by the Investigation Coordinator, or the Investigation Coordinator's staff, are confidential and exempt from the provisions of the Freedom of Information Act, Chapter 100 of Title 29. However, the disclosure of case specific data and information to the multidisciplinary team is authorized to ensure a comprehensive, integrated, multidisciplinary response to child abuse cases.

(3) The Investigation Coordinator, and the Investigation Coordinator's staff, as state employees, are entitled to immunity in accordance with § 4001 of Title 10.

(d) In implementing law-enforcement's role in the child protection system, the law-enforcement agency investigating a report of child abuse or neglect shall do all of the following:

(1) Report every case of child abuse or neglect to the Division as required by § 903 of this title.

(2) Provide information as necessary to the Investigation Coordinator to permit case tracking, monitoring, and reporting by the Investigation Coordinator.

(3) Notify the Department of Justice upon receipt of a report of death or serious physical injury of a child.

(4) Notify the multidisciplinary team as to whether it will be exercising jurisdiction in the case, or will be requesting another law-enforcement agency with jurisdiction to exercise such jurisdiction. Upon request, the other law-enforcement agency may exercise such jurisdiction.

(5) Promptly conduct a criminal investigation for any multidisciplinary case.

(6) Coordinate with the multidisciplinary team to secure forensic interviews and medical examinations, where applicable, and to conduct interviews while
considering the criminal investigation together with the Division's statutory duties to promptly assess child safety. Absent good cause, children ages 3 through 12, and all suspected child victims of human trafficking, must be interviewed in a children's advocacy center.

(7) Participate as a member of the multidisciplinary team, and keep the team regularly apprised of the status and findings of its investigation.

(8) Comply with the reporting requirements to the Board of Medical Licensure and Discipline under § 1730(b)(2) and § 1731A of Title 24, and to further report to the Board within 30 days of the closure of a criminal investigation or the arrest of a person who is licensed to practice medicine under Chapter 17, Title 24.

(e) In implementing the Division's role in the child protection system, the Division shall do all of the following:

(1) Receive and maintain reports pursuant to the provisions of §§ 903 and 905 of this title.

(2) Forward reports to the appropriate Division staff, who shall determine, through the use of protocols developed by the Division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols for making this determination shall be developed by the Division and shall give priority to ensuring the well-being and safety of the child.

(3) Conduct an investigation on a multidisciplinary case that involves intrafamilial or institutional child abuse or neglect, human trafficking of a child, or death of a child 3 years of age or less that appears to be sudden, unexpected, and unexplained. The Division may investigate any other report.

(4) [Repealed.]

(5) Ensure that every case involving the death or near death of a child due to abuse or neglect is reported to the Child Protection Accountability Commission and every case involving the death of a child to the Child Death Review Commission.

(6) Ensure that all cases involving allegations of child abuse or neglect by a person known to be licensed or certified by a Delaware agency or professional regulatory organization, have been reported to the appropriate Delaware agency or professional regulatory organization and the Investigation Coordinator in accordance with the provisions of this section.

(7) Have authority to secure a medical examination of a child, and any siblings or other children in the child's household without the consent of those responsible for the care, custody, and control of the child, if the child has been reported to be a victim of abuse or neglect; provided, that such case is classified as an investigation pursuant to paragraph (e)(3) of this section and the Director or the Director's designee gives prior authorization for such examination upon finding that such examination is necessary to protect the health and safety of the child. If such a medical examination is authorized under this section, the Division is authorized to transport the child to the medical examination. Medical examinations under this paragraph are covered under § 3557 of Title 18.

(8) At a minimum, investigate the nature, extent, and cause of the abuse or neglect; collect evidence; identify the alleged perpetrator; determine the names and condition of other children and adults in the home; assess the home environment, the relationship of the subject child to the parents or other persons responsible for the child's care, and any indication of incidents of physical violence against any other household or family member; perform background checks on all adults in the home; and gather other pertinent information.

(9) In the family assessment and services approach, assess service needs of the family from information gathered from the family and other sources. The Division shall identify and provide for services for families where it is
determined that the child is at risk of abuse or neglect. The Division shall document its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect. If the family refuses to accept or avoids the proffered services, the Division may refer the case for investigation or terminate services.

(10) Commence an immediate investigation if at any time during the family assessment and services approach the Division determines that an investigation as delineated in paragraph (e)(3) of this section is required or is otherwise appropriate. The Division staff who have conducted the assessment may remain involved in the provision of services to the child and family.

(11) Conduct a family assessment and services approach on reports initially referred for an investigation, if it is determined that a complete investigation is not required. The reason for the termination of the investigative process must be documented.

(12) Assist the child and family in obtaining services, if at any time during the investigation it is determined that the child or any member of the family needs services.

(13) Identify local services and ongoing medical needs, and assist with access to those services for children and families where there is risk of abuse or neglect.

(14) Update the internal information system at regular intervals during the course of the investigation. At the conclusion of the investigation, the internal information system must be updated to include a case finding.

(15) [Repealed.]

(16) Upon completion of an investigation or family assessment and services approach, if the Division suspects that the report was made maliciously or for the purpose of harassment, the Division shall refer the report and any evidence of malice or harassment to the appropriate law-enforcement agency.

(17)-(20) [Repealed.]

(21) Upon the receipt of a report concerning allegations of abuse or neglect against a person known by the Division to be licensed by any of the boards listed in § 8735 of Title 29, forward reports to the Division of Professional Regulation. For any entity the Division is notified of that is not included in § 8735 of Title 29, the Division shall forward a report of such allegations to the appropriate Delaware agency or professional regulatory organization.

(22) Coordinate with the multidisciplinary team to secure forensic interviews and medical examinations, where applicable, and to conduct interviews while considering the criminal investigation together with the Division's statutory duties to promptly assess child safety. Absent good cause, children ages 3 through 12, and all suspected child victims of human trafficking, shall be interviewed in a children's advocacy center.

(23) Participate as a member of the multidisciplinary team, and keep the team regularly apprised of the status and findings of its investigation.

(f) In implementing the Department of Justice's role in the child protection system, it shall do all of the following:

(1) Report every case of child abuse or neglect to the Division pursuant to § 903 of this title.

(2) Ensure that every case involving the death or near death of a child due to abuse or neglect is reported to the Child Protection Accountability Commission and every case involving the death of a child to the Child Death Review Commission.

(3) Provide information as necessary to the Investigation Coordinator to permit case tracking, monitoring and reporting by the Investigation Coordinator.

(4) Ensure that all cases involving allegations of child abuse or neglect by a
person known to be licensed or certified by a Delaware agency or professional regulatory organization, have been reported to the appropriate Delaware agency or professional regulatory organization and the Investigation Coordinator in accordance with provisions of this section.

(5) Participate as a member of the multidisciplinary team, and keep the team regularly apprised of the status and findings of its prosecution.

(g)

(1) If a criminal prosecution for child sexual abuse or exploitation or human trafficking of a child is initiated by the Department of Justice against a person employed by or associated with a facility or organization required to be licensed or whose staff personnel are required to be licensed under Delaware law whose primary concern is that of child welfare and care, the Department of Justice shall notify such employer within 48 hours.

(2) Any violations of this subsection shall be dealt with administratively by the Attorney General and the penalty provisions of § 914 of this title shall not apply hereto.

(h) If a criminal prosecution for abuse or neglect is initiated by the Department of Justice pursuant to a report under this chapter and incarceration of the person who is the subject of the report is ordered by the court, the Department of Justice shall keep the Division informed of actions taken by the courts which result in the release of any such individual.

16 § 907 Temporary emergency protective custody.
Del. Code Ann. 16 § 907

(a) A police officer, nurse practitioner, or a physician who reasonably suspects that a child is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect and who reasonably suspects the harm or threat to life may occur before the Family Court can issue a temporary protective custody order may take or retain temporary emergency protective custody of the child without the consent of the child's parents, guardian, or others legally responsible for the child's care.

(b) Any person taking a child into temporary emergency protective custody under this section shall immediately notify the Division, in the county in which the child is located, of the person's actions and make a reasonable attempt to advise the parents, guardians, or others legally responsible for the child's care. In notifying the Division, such person shall set forth the identity of the child and the facts and circumstances which gave such person reasonable cause to believe that there was imminent danger of serious physical harm or threat to the life of the child. Upon notification that a child has been taken into temporary emergency protective custody, the Division shall immediately respond in accordance with § 906 of this title to secure the safety of the child which may include ex parte custody relief from the Family Court if appropriate.

(c) Temporary emergency protective custody for purposes of this section may not exceed 4 hours and must cease upon the Division's response pursuant to subsection (b) of this section.

(d) For the purposes of this section, “temporary emergency protective custody” means temporary placement within a hospital, medical facility, or such other suitable placement; provided, however, that an abused or neglected child may not be detained in temporary custody in a secure detention facility.

(e) A Division investigator conducting an investigation pursuant to § 906 of this title has the same authority as that granted to a police officer, nurse practitioner, or physician in subsection (a) of this section, subject to all the same conditions as those listed in subsections (a) through (d) of this section, provided that the child in question is located at a school, day care facility, or child care facility at the time that the authority is initially
exercised. In no other case may an employee of the Division exercise custody under
this section.

16 § 908 Immunity from liability, and special reimbursement to
hospitals for expenses related to certain babies.
Del. Code Ann. 16 § 908

(a) Any person participating in good faith in the making of a report or notifying police
officers pursuant to this chapter; assisting in a multidisciplinary case as required by §
906(b)(4) of this title; performing a medical examination without the consent of those
responsible for the care, custody, and control of a child pursuant to § 906(e) of this
title; or exercising emergency protective custody in compliance with § 907 of this title
has immunity from any liability, civil or criminal, that might otherwise exist, and such
immunity extends to participation in any judicial proceeding resulting from the above
actions taken in good faith. This section does not limit the liability of any health-care
provider for personal injury claims due to medical negligence that occurs as a result
of any examination performed pursuant to this chapter.

(b) A hospital, hospital employee or hospital volunteer which accepts temporary
emergency protective custody of a baby pursuant to § 907A of this title is absolutely
immune from civil and administrative liability for any act of commission or omission
in connection with the acceptance of that temporary emergency protective custody
or the provision of care for the baby when left at the hospital while said baby is in
the hospital’s temporary emergency protective custody except for negligence or
intentional acts. If a hospital accepts temporary emergency protective custody of a
baby pursuant to § 907A of this title, the State shall reimburse the hospital for eligible,
medically necessary costs under the Medicaid Fee for Service Program.

16 § 909 Privileged communication not recognized; judicial proceedings;
disclosure of information.
Del. Code Ann. 16 § 909

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

(b) In any judicial proceeding involving the custody of a child, the fact that a report
has been made pursuant to § 903 or § 905 of this title is not be admissible unless
offered by the Division as a party or as a friend of the court. However, this subsection
does not prohibit the introduction of evidence from independent sources to support
the allegations that may have caused a report to have been made.

(c) To protect the privacy of the family and the child named in a report, the Division
shall establish guidelines concerning the disclosure of information concerning the
abuse and neglect involving a child. The Division may require persons to make written
requests for access to records maintained by the Division. The Division may only
release information to persons who have a legitimate public safety need for such
information or a need based on the health and safety of a child subject to abuse,
neglect or the risk of maltreatment, and such information may be used only for the
purpose for which the information is released.

16 § 911 Training and information.
Del. Code Ann. 16 § 911

(a) The Division shall, on a continuing basis, undertake and maintain programs to
inform all persons required to report abuse or neglect pursuant to § 903 of this title and the public of the nature, problem and extent of abuse and neglect, and of the remedial and therapeutic services available to children and their families and to encourage self-reporting and the voluntary acceptance of such services.

(b) The Division shall conduct ongoing training programs to advance the purpose of this section.

(c) The Division shall continuously publicize the existence of the 24-hour report-line to those required to report abuse or neglect pursuant to § 903 of this title of their responsibilities and to the public the existence of the 24-hour statewide toll-free telephone number to receive reports of abuse or neglect.

16 § 914 Penalty for violation.
Del. Code Ann. 16 § 914

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

(b) In any action brought under this section, if the court finds a violation, the court may award costs and attorneys' fees.
§ 4-1301.06b. Obtaining records.
D.C. Code § 4-1301.06b

(a) Notwithstanding any other provision of law, upon the Agency's request, a person who is required to report suspected incidents of child abuse or neglect under § 4-1321.02 shall immediately provide the Agency copies of all records in the possession of the person or the person's employees of:

1. A child who is the subject of an investigation of child abuse or neglect; provided, that the records bear directly on the allegations of abuse or neglect being investigated; and
2. Any other child residing in the household where the abuse or neglect is alleged to have occurred when the Agency has a reasonable suspicion that the child's health, safety, or welfare is at risk; provided, that the records bear directly on the basis of the Agency's suspicion.

(b) The Agency shall request the records as needed for its investigation under this part.

(c) The Agency shall not be charged a fee for the records.

(d) If the Agency determines that the report of abuse or neglect is an unfounded report or an inconclusive report, as defined in § 4-1301.02, the Agency shall immediately destroy all copies of any records it has received under this section.

§ 4-1302.03. Access to Register; release of information generally.
D.C. Code § 4-1302.03

(a) The staff which maintains the Child Protection Register shall grant access to information contained in said Register only to the following persons:

1. Officers of the police for the purpose of an investigation of a report;
2. The Corporation Counsel of the District of Columbia or his or her agent for the purpose of fulfilling his or her official duties concerning investigating and prosecuting cases of an allegedly abused or neglected child;
3A. The United States Attorney for the District of Columbia, or his or her agent, for the purpose of fulfilling his or her official duties concerning investigating and prosecuting cases involving an allegedly abused or neglected child;
3. The personnel of the Agency and the Social Services Agency of the Superior Court of the District of Columbia for the purpose of investigating a report or providing services to a family or child who is the subject of a report;
4. The guardian ad litem of a child who is the subject of a report;
5. Each person identified in a report as a person responsible for the neglect of the child or that person's attorney;
6. The parent, guardian, custodian, or attorney of the child who is the subject of the report;
7. A child-placing agency licensed in the District of Columbia or the Agency's staff who makes child placements for the purpose of checking a proposed foster care or adoptive placement for a report of abuse or neglect, upon submission of a signed consent for release of information pursuant to § 4-1407.01;
8. The Child Fatality Review Committee, for the purpose of examining past events and circumstances surrounding child deaths in the District of Columbia and deaths of children who were either residents or wards of the District of Columbia, in an effort to reduce the number of preventable child deaths, especially those deaths attributable to child abuse and neglect and other forms of maltreatment. The Child Fatality Review Committee shall be granted, upon request, access to information contained in the files maintained on any deceased child or on the parent, guardian, custodian,
kinship caregiver, day-to-day caregiver, relative/godparent caregiver, or sibling of a deceased child; and

(9) Any member of a multidisciplinary investigation team ("MDT") established pursuant to Part A-i of this subchapter for purposes of an investigation or review conducted by the MDT.

(a-1)

(1) Except as provided in paragraph (3) of this subsection, the staff which maintains the Child Protection Register shall grant access to substantiated reports to the chief executive officers or directors of day care centers, schools, or any public or private organizations working directly with children, for the purpose of making employment decisions regarding employees and volunteers or prospective employees and volunteers, if:

(A) The request is made in writing and clearly articulates the basis for the request; and

(B) The request is accompanied by a notarized consent for release of information from the Child Protection Register signed by the employee or volunteer or prospective employee or volunteer.

(2) Information provided pursuant to this subsection shall be limited to information pertaining to the nature and disposition of the report of abuse or neglect and shall not include any identifying information regarding any person other than the employee or volunteer, or prospective employee or volunteer.

(3) The Agency shall not release any information pursuant to this subsection pertaining to a substantiated report that was received prior to the October 19, 2002.

(b) The investigators of a report may divulge the information obtained from the Child Protection Register to medical professionals for the purpose of obtaining a diagnosis of the child who is the subject of the report.

(c) Each person seeking access to the Child Protection Register shall show identification satisfactory to the staff which maintains said Register before access is allowed.

(d) The staff which maintains the Child Protection Register shall not release to those persons identified in paragraphs (5), (6), and (7) of subsection (a) of this section any information that identifies the source of a report or the witnesses to the incident referred to in a report unless said staff first obtains permission from the source of the report or from the witnesses named in the report.

(e) The staff which maintains the Child Protection Register shall release only that information which is necessary for the purpose of the request and which does not violate the confidentiality of the persons identified in the report, except as is necessary to meet the requirements of subsection (a) of this section.

(f) The staff which maintains the Child Protection Register shall not release the information contained in said Register to another jurisdiction unless:

(1) That jurisdiction has comparable safeguards for ensuring the confidentiality of information regarding persons identified in the report and for withholding the identity of the source of the report; or

(2) The staff obtains permission for the release of the information from each person identified in the report and from the source of the report.

(g) The staff which maintains the Child Protection Register shall maintain a record of each release of information, which record shall contain the following information:

(1) The date of the release of the information;

(2) To whom the information was released and the address of that person or
(h) The information in the Child Protection Register shall be released orally only to the Metropolitan Police Department, to the Office of the Attorney General, and to personnel of the Agency and of the Social Services Agency of the Superior Court of the District of Columbia when they are investigating a report. Any release of information to other persons listed in subsection (a) of this section or pursuant to §4-1302.04 shall be preceded by a written request from the person requesting the information.

§ 4-1302.04. Release of information for research and evaluation.
D.C. Code § 4-1302.04

The staff which maintains the Child Protection Register may release information from said Register for research and evaluation only upon an order of the Superior Court of the District of Columbia; provided, however, that no information identifying the persons named in a report shall be made available to the researcher or evaluator.

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

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

(a-1) A person specified in subsection (b) of this section shall report to the Child and Family Services Agency any child who is age 5 through 13 years and who has 10 or more days of unexcused absences within a school year, as that term is defined in §38-201(4).

(a-2) Expired.

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

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

(e) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been, or is in immediate danger of being, the victim of “sexual abuse” or “attempted sexual abuse” prohibited by Chapter 30 of Title 22 [§ 22-3001 et seq.]; or that the child was assisted, supported, caused, encouraged, commanded, enabled, induced, facilitated, or permitted to become a prostitute, as that term is defined in § 22-2701.01(3); or that the child has an injury caused by a bullet; or that the child has an injury caused by a knife or other sharp object which has been caused by other than accidental means, shall immediately report or have a report made of such knowledge, information, or suspicion to the Metropolitan Police Department or the Child and Family Services Agency.

(f) A health professional licensed pursuant to Chapter 12 of Title 3 [§ 3-1201.01 et seq.], who in his or her own professional or official capacity knows that a child under 12 months of age is diagnosed as having a Fetal Alcohol Spectrum Disorder, shall immediately report or have a report made to the Child and Family Services Agency.

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

(h) The Metropolitan Police Department shall immediately report or have a report made to the Child and Family Services Agency of any knowledge, information, or suspicion of a child engaging in or offering to engage in a sexual act, as defined in § 22-3001(8), or sexual contact, as defined in § 22-3001(9), in return for receiving anything of value.
(2) The nature and extent of the abuse or neglect of the child and any previous abuse or neglect, if known;
(3) All other information which the person making the report believes may be helpful in establishing the cause of the abuse or neglect and the identity of the person responsible for the abuse or neglect; and
(4) If the source was required to report under this subchapter, the identity and occupation of the source, how to contact the source and a statement of the actions taken by the source concerning the child.

§ 4-1321.04. Immunity from liability.
D.C. Code § 4-1321.04

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

§ 4-1321.05. Privileges; waiver.
D.C. Code § 4-1321.05

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

§ 4–1321.06. Exceptions for treatment solely by spiritual means.
D.C. Code § 4-1321.06

Notwithstanding any other provision of this subchapter, no child who in good faith is under treatment 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 have been neglected within the purview of this subchapter.

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

Any person required to make a report under this subchapter who willfully fails to make such a report shall be fined not more than the amount set forth in § 22-3571.01, imprisoned not more than 180 days, or both. Violations of this subchapter shall be prosecuted by the Attorney General of the District of Columbia or his or her agent in the name of the District of Columbia.

§ 22-1931. Obstructing, preventing, or interfering with reports to or requests for assistance from law enforcement agencies, medical providers, or child welfare agencies.
D.C. Code § 22-1931

(a) It shall be unlawful for a person to knowingly disconnect, damage, disable, temporarily or permanently remove, or use physical force or intimidation to block
access to any telephone, radio, computer, or other electronic communication device with
a purpose to obstruct, prevent, or interfere with:
(1) The report of any criminal offense to any law enforcement agency;
(2) The report of any bodily injury or property damage to any law enforcement
agency;
(3) A request for ambulance or emergency medical assistance to any
governmental agency, or any hospital, doctor, or other medical service provider,
or
(4) The report of any act of child abuse or neglect to a law enforcement or child
welfare agency.

(b) A person who violates subsection (a) of this section shall be fined not more than the
amount set forth in § 22-3571.01 or imprisoned not more than 180 days, or both.

§ 22-3020.52. Reporting requirements and privileges – reporting sexual
abuse.
D.C. Code § 22-3020.52

(a) Any person who knows, or has reasonable cause to believe, that a child is a victim of
sexual abuse shall immediately report such knowledge or belief to the police. For the
purposes of this subchapter, a call to 911, or a report to the Child and Family Services
Agency, shall be deemed a report to the police.

(b) Any person who is or has been a victim of sexual abuse is not required to report
pursuant to subsection (a) of this section if the identity of the alleged perpetrator matches
the identity of the victim's abuser.

(c) No legally recognized privilege, except for the following, shall apply to this subchapter:
(1) A lawyer or a person employed by a lawyer is not required to report
pursuant to subsection (a) of this section if the lawyer or employee is providing
representation in a criminal, civil, or delinquency matter, and the basis for the
knowledge or belief arises solely in the course of that representation.
(2) A The notification requirements of subsection (a) of this subsection do
not apply to a priest, clergyman, rabbi, or other duly appointed, licensed,
ordained, or consecrated minister of a given religion in the District
of Columbia, or a duly accredited practitioner of Christian Science in
the District of Columbia, if the basis for the knowledge or belief is the
result of a confession or penitential communication made by a penitent
directly to the minister if:
(i) The penitent made the confession or penitential
communication in confidence;
(ii) The confession or penitential communication was made
expressly for a spiritual or religious purpose;
(iii) The penitent made the confession or penitential
communication to the minister in the minister's professional
capacity; and
(iv) The confession or penitential communication was made in
the course of discipline enjoined by the church or other religious
body to which the minister belongs.
(B) A confession or communication made under any other circumstances
does not fall under this exemption.

(d) This section should not be construed as altering the special duty to report by persons
specified in § 4-1321.02(b).

D.C. Code § 22-3020.53
(a) Any survivor of domestic violence may use such domestic violence as a defense to his or her failure to report under this subchapter.

(b) For the purposes of this section, the term “domestic violence” means intimate partner violence, as defined in § 16-1001(7), and intrafamily violence, as defined in § 16-1001(9).

§ 22-3020.54. Penalties – reporting sexual abuse.
D.C. Code § 22-3020.54

(a) Any person required to make a report under this subchapter who willfully fails to make such a report shall be subject to a civil fine of $300.

(b) Adjudication of any infraction of this subchapter shall be handled by the Office of Administrative Hearings pursuant to § 2-1831.03(b-6).

§ 22-3020.55. Immunity from liability – reporting sexual abuse.
D.C. Code § 22-3020.55

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

(b) Any person who makes a good-faith report pursuant to this subchapter and, as a result thereof, is discharged from his or her employment or in any other manner discriminated against with respect to compensation, hire, tenure, or terms, conditions, or privileges of employment, may commence a civil action for appropriate relief. If the court finds that the person is an individual who was required to report, who in good faith made a report, and who was discharged or discriminated against as a result, the court may issue an order granting appropriate relief, including reinstatement with back pay. The District may intervene in any action commenced under this subsection.
§ 39.201. Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.

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

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

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

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

1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;
2. Health or mental health professional other than one listed in subparagraph 1.;
3. Practitioner who relies solely on spiritual means for healing;
4. School teacher or other school official or personnel;
5. Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;
6. Law enforcement officer; or
7. Judge.

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

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

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

(g) Nothing in this chapter or in the contracting with community-based care providers for foster care and related services as specified in s. 409.987 shall be construed to remove or reduce the duty and responsibility of any person, including any employee of the community-based care provider, to report a suspected or actual case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline.

(h) An officer or employee of a law enforcement agency is not required to provide notice to the department of reasonable cause to suspect child abuse
by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child’s welfare when the incident under investigation by the law enforcement agency was reported to law enforcement by the Central Abuse Hotline through the electronic transfer of the report or call. The department's Central Abuse Hotline is not required to electronically transfer calls and reports received pursuant to paragraph (2)(b) to the county sheriff's office if the matter was initially reported to the department by the county sheriff's office or another law enforcement agency. This paragraph applies only when the information related to the alleged child abuse has been provided to the officer or employee of a law enforcement agency or Central Abuse Hotline employee in the course of carrying out his or her official duties.

(2)

(a) Each report of known or suspected child abuse, abandonment, or neglect by a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in this chapter, except those solely under s. 827.04(3), and each report that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall be made immediately to the department's central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or via fax, web-based chat, or web-based report. Personnel at the department's central abuse hotline shall determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. Any report meeting one of these definitions shall be accepted for the protective investigation pursuant to part III of this chapter. Any call received from a parent or legal custodian seeking assistance for himself or herself which does not meet the criteria for being a report of child abuse, abandonment, or neglect may be accepted by the hotline for response to ameliorate a potential future risk of harm to a child. If it is determined by a child welfare professional that a need for community services exists, the department shall refer the parent or legal custodian for appropriate voluntary community services.

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

(c) Reports involving juvenile sexual abuse or a child who has exhibited inappropriate sexual behavior shall be made and received by the department. An alleged incident of juvenile sexual abuse involving a child who is in the custody of or protective supervision of the department shall be reported to the department's central abuse hotline.

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

2. The department shall ensure that the facts and results of any investigation of child sexual abuse involving a child in the custody of or under the protective supervision of the department are made known to the court at the next hearing or included in the next report to the court concerning the child.
(d) If the report is of an instance of known or suspected child abuse, abandonment, or neglect that occurred out of state and the alleged perpetrator and the child alleged to be a victim live out of state, the central abuse hotline shall not accept the report or call for investigation, but shall transfer the information on the report to the appropriate state.

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

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

(g) Reports involving surrendered newborn infants as described in s. 383.50 shall be made and received by the department.
   1. If the report is of a surrendered newborn infant as described in s. 383.50 and there is no indication of abuse, neglect, or abandonment other than that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the department shall provide to the caller the name of a licensed child-placing agency on a rotating basis from a list of licensed child-placing agencies eligible and required to accept physical custody of and to place newborn infants left at a hospital, emergency medical services station, or fire station. The report shall not be considered a report of abuse, neglect, or abandonment solely because the infant has been left at a hospital, emergency medical services station, or fire station pursuant to s. 383.50.
   2. If the call, fax, web-based chat, or web-based report includes indications of abuse or neglect beyond that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the report shall be considered as a report of abuse, neglect, or abandonment and shall be subject to the requirements of s. 39.395 and all other relevant provisions of this chapter, notwithstanding any provisions of chapter 383.

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

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

(j) 1. The department shall update the web form used for reporting child abuse, abandonment, or neglect to:
   a. Include qualifying questions in order to obtain necessary information required to assess need and a response.
   b. Indicate which fields are required to submit the report.
   c. Allow a reporter to save his or her report and return to it at a later time.

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

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

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

(4) The department shall operate and maintain a central abuse hotline to receive all reports made pursuant to this section in writing, via fax, via web-based reporting, via web-based chat, or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, abandonment, or neglect at any hour of the day or night, any day of the week. The department shall promote public awareness of the central abuse hotline through community-based partner organizations and public service campaigns. The central abuse hotline is the first step in the safety assessment and investigation process. The central abuse hotline shall be operated in such a manner as to enable the department to:
   a. Immediately identify and locate prior reports or cases of child abuse, abandonment, or neglect through utilization of the department's automated tracking system.
   b. Monitor and evaluate the effectiveness of the department's program for reporting and investigating suspected abuse, abandonment, or neglect of children through the development and analysis of statistical and other information.
   c. Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse, abandonment, or neglect.
   d. Maintain and produce aggregate statistical reports monitoring patterns of child abuse, child abandonment, and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports. The department shall collect and analyze, in separate statistical reports, those reports of child abuse and sexual abuse which are reported from or occurred on the campus of any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02.
   e. Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, abandonment, or neglect.
   f. Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.
(5) The department shall be capable of receiving and investigating, 24 hours a day, 7 days a week, reports of known or suspected child abuse, abandonment, or neglect and reports that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse, abandonment, or neglect cases, a child protective investigation shall be commenced within 24 hours after receipt of the report. In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

(6) Information in the central abuse hotline may not be used for employment screening, except as provided in s. 39.202(2)(a) and (h) or s. 402.302(15). Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176. Pursuant to s. 39.202(2)(q), the information in the central abuse hotline may also be used by the Department of Education for purposes of educator certification discipline and review.

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

§ 39.202. Confidentiality of reports and records in cases of child abuse or neglect.

(1) In order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, all records held by the department concerning reports of child abandonment, abuse, or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except as specifically authorized by this chapter. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this section.

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:
   (a) Employees, authorized agents, or contract providers of the department,
the Department of Health, the Agency for Persons with Disabilities, the Office of Early Learning, or county agencies responsible for carrying out:

1. Child or adult protective investigations;
2. Ongoing child or adult protective services;
3. Early intervention and prevention services;
4. Healthy Start services;
5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapter 393, family day care homes, providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of children;
6. Employment screening for caregivers in residential group homes; or
7. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

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

(b) Criminal justice agencies of appropriate jurisdiction.

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

(d) The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected, and the child, and their attorneys, including any attorney representing a child in civil or criminal proceedings. This access shall be made available no later than 60 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(e) Any person alleged in the report as having caused the abuse, abandonment, or neglect of a child. This access shall be made available no later than 60 days after the department receives the initial report of abuse, neglect, or abandonment and, when the alleged perpetrator is not a parent, shall be limited to information involving the protective investigation only and shall not include any information relating to subsequent dependency proceedings. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

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

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

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

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

(i) Any person authorized by the department who is engaged in the use of such records or information for bona fide research, statistical, or audit purposes. Such individual or entity shall enter into a privacy and security agreement with
the department and shall comply with all laws and rules governing the
use of such records and information for research and statistical purposes.
Information identifying the subjects of such records or information shall be
treated as confidential by the researcher and shall not be released in any
form.
(i) The Division of Administrative Hearings for purposes of any administrative
challenge.
(k) Any appropriate official of a Florida advocacy council investigating a
report of known or suspected child abuse, abandonment, or neglect; the
Auditor General or the Office of Program Policy Analysis and Government
Accountability for the purpose of conducting audits or examinations
pursuant to law; or the guardian ad litem for the child.
(l) Employees or agents of an agency of another state that has comparable
jurisdiction to the jurisdiction described in paragraph (a).
(m) The Public Employees Relations Commission for the sole purpose of
obtaining evidence for appeals filed pursuant to s. 447.207. Records may be
released only after deletion of all information which specifically identifies
persons other than the employee.
(n) Employees or agents of the Department of Revenue responsible for child
support enforcement activities.
(o) Any person in the event of the death of a child determined to be a result
of abuse, abandonment, or neglect. Information identifying the person
reporting abuse, abandonment, or neglect shall not be released. Any
information otherwise made confidential or exempt by law shall not be
released pursuant to this paragraph.
(p) An employee of the local school district who is designated as a liaison
between the school district and the department pursuant to an interagency
agreement required under s. 39.0016 and the principal of a public school,
private school, or charter school where the child is a student. Information
contained in the records which the liaison or the principal determines
are necessary for a school employee to effectively provide a student with
educational services may be released to that employee.
(q) An employee or agent of the Department of Education who is responsible
for the investigation or prosecution of misconduct by a certified educator.
(r) Staff of a children’s advocacy center that is established and operated
under s. 39.3035.
(s) A physician licensed under chapter 458 or chapter 459, a psychologist
licensed under chapter 490, or a mental health professional licensed under
chapter 491 engaged in the care or treatment of the child.
(t) Persons with whom the department is seeking to place the child or to
whom placement has been granted, including foster parents for whom
an approved home study has been conducted, the designee of a licensed
residential group home described in s. 39.523, an approved relative or
nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive
parents for whom a favorable preliminary adoptive home study has been
conducted, adoptive parents, or an adoption entity acting on behalf of
preadoptive or adoptive parents.

(3) The department may release to professional persons such information as is
necessary for the diagnosis and treatment of the child or the person perpetrating the
abuse or neglect.

(4) Notwithstanding any other provision of law, when a child under investigation or
supervision of the department or its contracted service providers is determined to be
missing, the following shall apply:
(a) The department may release the following information to the public when
it believes the release of the information is likely to assist efforts in locating
the child or to promote the safety or well-being of the child:
1. The name of the child and the child's date of birth;
2. A physical description of the child, including at a minimum the height, weight, hair color, eye color, gender, and any identifying physical characteristics of the child; and
3. A photograph of the child.

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

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

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

(5) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, the child protection team, or the appropriate state attorney, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. Any person specifically listed in s. 39.201 who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

(6) All records and reports of the child protection team of the Department of Health are confidential and exempt from the provisions of ss. 119.071 and 456.057, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child, by order of the court, or to health plan payors, limited to that information used for insurance reimbursement purposes.

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

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

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

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

(1) Any person or organization, including the Department of Children and Families, may petition the court for an order making public the records of the Department of Children and Families which pertain to investigations of alleged abuse, abandonment, or neglect of a child. The court shall determine whether good cause exists for public access to the records sought or a portion thereof. In making this determination, the court shall balance the best interests of the child who is the focus of the investigation and the interest of that child's siblings, together with the privacy rights of other persons identified in the reports, against the public interest. The public interest in access to such records is reflected in s. 119.01, and includes the need for citizens to know of and adequately evaluate the actions of the Department of Children and Families and the court system in providing children of this state with the protections enumerated in s. 39.001. However, this subsection does not contravene s. 39.202, which protects the name of any person reporting the abuse, abandonment, or neglect of a child.

(2) In cases involving serious bodily injury to a child, the Department of Children and Families may petition the court for an order for the immediate public release of records of the department which pertain to the protective investigation. The petition must be personally served upon the child, the child's parent or guardian, and any person named as an alleged perpetrator in the report of abuse, abandonment, or neglect. The court must determine whether good cause exists for the public release of the records sought no later than 24 hours, excluding Saturdays, Sundays, and legal holidays, after the date the department filed the petition with the court. If the court does not grant or deny the petition within the 24-hour time period, the department may release to the public summary information including:
   (a) A confirmation that an investigation has been conducted concerning the alleged victim.
   (b) The dates and brief description of procedural activities undertaken during the department's investigation.
   (c) The date of each judicial proceeding, a summary of each participant's recommendations made at the judicial proceeding, and the ruling of the court.

The summary information shall not include the name of, or other identifying information with respect to, any person identified in any investigation. In making a determination to release confidential information, the court shall balance the best interests of the child who is the focus of the investigation and the interests of that child's siblings, together with the privacy rights of other persons identified in the reports against the public interest for access to public records. However, this subsection does not contravene s. 39.202, which protects the name of any person reporting abuse, abandonment, or neglect of a child.

(3) When the court determines that good cause for public access exists, the court shall direct that the department redact the name of, and other identifying information with respect to, any person identified in any protective investigation report until such time as the court finds that there is probable cause to believe that the person identified committed an act of alleged abuse, abandonment, or neglect.

§ 39.203. Immunity from liability in cases of child abuse, abandonment, or neglect.

(1) Any person, official, or institution participating in good faith in any act authorized or required by this chapter, or reporting in good faith any
instance of child abuse, abandonment, or neglect to the department or any law enforcement agency, shall be immune from any civil or criminal liability which might otherwise result by reason of such action. (b) Except as provided in this chapter, nothing contained in this section shall be deemed to grant immunity, civil or criminal, to any person suspected of having abused, abandoned, or neglected a child, or committed any illegal act upon or against a child.

(2) (a) No resident or employee of a facility serving children may be subjected to reprisal or discharge because of his or her actions in reporting abuse, abandonment, or neglect pursuant to the requirements of this section. (b) Any person making a report under this section shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of such reporting party by reason of his or her making such report. Any detrimental change made in the residency or employment status of such person, including, but not limited to, discharge, termination, demotion, transfer, or reduction in pay or benefits or work privileges, or negative evaluations within a prescribed period of time shall establish a rebuttable presumption that such action was retaliatory.

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

The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, abandonment, or neglect and shall not constitute grounds for failure to report as required by s. 39.201 regardless of the source of the information requiring the report, failure to cooperate with law enforcement or the department in its activities pursuant to this chapter, or failure to give evidence in any judicial proceeding relating to child abuse, abandonment, or neglect.

§ 39.205. Penalties relating to reporting of child abuse, abandonment, or neglect.  

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

(2) Unless the court finds that the person is a victim of domestic violence or that other mitigating circumstances exist, a person who is 18 years of age or older and lives in the same house or living unit as a child who is known or suspected to be a victim of child abuse, neglect of a child, or aggravated child abuse, and knowingly and willfully fails to report the child abuse commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(3) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose administrators knowingly and willfully, upon receiving information from faculty, staff, or other institution employees, fail to report known or suspected child abuse, abandonment, or neglect committed on the property of the university, college, or school, or during an event or function sponsored by the university, college, or school, or who knowingly and willfully prevent another person from doing so, shall be subject to fines of $1 million for each such failure.

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

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

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

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

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

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

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

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

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

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

§ 39.206. Administrative fines for false report of abuse, abandonment, or neglect of a child; civil damages.


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

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

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

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

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

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

(a) The gravity of the violation, including the probability that serious physical or emotional harm to any person will result or has resulted, the severity of the actual or potential harm, and the nature of the false allegation.
(b) Actions taken by the false reporter to retract the false report as an element of mitigation, or, in contrast, to encourage an investigation on the basis of false information.
(c) Any previous false reports filed by the same individual.

(7) A decision by the department, following the administrative hearing, to impose an administrative fine for filing a false report constitutes final agency action within the meaning of chapter 120. Notice of the imposition of the administrative fine must be served upon the person and the person’s legal counsel, by certified mail, return
(8) All amounts collected under this section shall be deposited into an appropriate trust fund of the department.

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

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

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

§ 39.301. Initiation of protective investigations.


(1) Upon receiving a report of known or suspected child abuse, abandonment, or neglect, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated district staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification, the central abuse hotline shall also provide information to district staff on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(2) (a) The department shall immediately forward allegations of criminal conduct to the municipal or county law enforcement agency of the municipality or county in which the alleged conduct has occurred.

(b) As used in this subsection, the term “criminal conduct” means:
1. A child is known or suspected to be the victim of child abuse, as defined in s. 827.03, or of neglect of a child, as defined in s. 827.03.
2. A child is known or suspected to have died as a result of abuse or neglect.
3. A child is known or suspected to be the victim of aggravated child
abuse, as defined in s. 827.03.
4. A child is known or suspected to be the victim of sexual battery, as defined in s. 827.071, or of sexual abuse, as defined in s. 39.01.
5. A child is known or suspected to be the victim of institutional child abuse or neglect, as defined in s. 39.01, and as provided for in s. 39.302(1).
6. A child is known or suspected to be a victim of human trafficking, as provided in s. 787.06.
(c) Upon receiving a written report of an allegation of criminal conduct from the department, the law enforcement agency shall review the information in the written report to determine whether a criminal investigation is warranted. If the law enforcement agency accepts the case for criminal investigation, it shall coordinate its investigative activities with the department, whenever feasible. If the law enforcement agency does not accept the case for criminal investigation, the agency shall notify the department in writing.
(d) The local law enforcement agreement required in s. 39.306 shall describe the specific local protocols for implementing this section.

(3) The department shall maintain a single, standard electronic child welfare case file for each child whose report is accepted by the central abuse hotline for investigation. Such file must contain information concerning all reports received by the abuse hotline concerning that child and all services received by that child and family. The file must be made available to any department staff, agent of the department, or contract provider given responsibility for conducting a protective investigation.

(4) To the extent practical, all protective investigations involving a child shall be conducted or the work supervised by a single individual in order for there to be broad knowledge and understanding of the child's history. When a new investigator is assigned to investigate a second and subsequent report involving a child, a multidisciplinary staffing shall be conducted which includes new and prior investigators, their supervisors, and appropriate private providers in order to ensure that, to the extent possible, there is coordination among all parties. The department shall establish an internal operating procedure that ensures that all required investigatory activities, including a review of the child’s complete investigative and protective services history, are completed by the investigator, reviewed by the supervisor in a timely manner, and signed and dated by both the investigator and the supervisor.

(5)

(a) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:
1. The names of the investigators and identifying credentials from the department.
2. The purpose of the investigation.
3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.
4. The possible outcomes and services of the department's response.
5. The right of the parent or legal custodian to be engaged to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem and the remedy.
6. The duty of the parent or legal custodian to report any change in the residence or location of the child to the investigator and that the duty to report continues until the investigation is closed.
(b) The investigator shall fully inform parents or legal custodians of their rights and options, including opportunities for audio or video recording of investigators' interviews with parents or legal custodians or children.
(6) Upon commencing an investigation under this part, if a report was received from a reporter under s. 39.201(1)(b), the protective investigator must provide his or her contact information to the reporter within 24 hours after being assigned to the investigation. The investigator must also advise the reporter that he or she may provide a written summary of the report made to the central abuse hotline to the investigator which shall become a part of the electronic child welfare case file.

(7) An assessment of safety and the perceived needs for the child and family shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family. This assessment must include a face-to-face interview with the child, other siblings, parents, and other adults in the household and an onsite assessment of the child's residence.

(8) Protective investigations shall be performed by the department or its agent.

(9)

(a) For each report received from the central abuse hotline and accepted for investigation, the department or the sheriff providing child protective investigative services under s. 39.3065, shall perform the following child protective investigation activities to determine child safety:

1. Conduct a review of all relevant, available information specific to the child and family and alleged maltreatment; family child welfare history; local, state, and federal criminal records checks; and requests for law enforcement assistance provided by the abuse hotline. Based on a review of available information, including the allegations in the current report, a determination shall be made as to whether immediate consultation should occur with law enforcement, the child protection team, a domestic violence shelter or advocate, or a substance abuse or mental health professional. Such consultations should include discussion as to whether a joint response is necessary and feasible. A determination shall be made as to whether the person making the report should be contacted before the face-to-face interviews with the child and family members.

2. Conduct face-to-face interviews with the child; other siblings, if any; and the parents, legal custodians, or caregivers.

3. Assess the child's residence, including a determination of the composition of the family and household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

4. Determine whether there is any indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address, date of birth, social security number, sex, and race of each such person.

5. Complete assessment of immediate child safety for each child based on available records, interviews, and observations with all persons named in subparagraph 2. and appropriate collateral contacts, which may include other professionals. The department's child protection investigators are hereby designated a criminal justice agency for the purpose of accessing criminal justice information to be used for enforcing this state's laws concerning the
crimes of child abuse, abandonment, and neglect. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and may not be further disseminated or used for any other purpose.

6. Document the present and impending dangers to each child based on the identification of inadequate protective capacity through utilization of a standardized safety assessment instrument. If present or impending danger is identified, the child protective investigator must implement a safety plan or take the child into custody. If present danger is identified and the child is not removed, the child protective investigator shall create and implement a safety plan before leaving the home or the location where there is present danger. If impending danger is identified, the child protective investigator shall create and implement a safety plan as soon as necessary to protect the safety of the child. The child protective investigator may modify the safety plan if he or she identifies additional impending danger.

a. If the child protective investigator implements a safety plan, the plan must be specific, sufficient, feasible, and sustainable in response to the realities of the present or impending danger. A safety plan may be an in-home plan or an out-of-home plan, or a combination of both. A safety plan may include tasks or responsibilities for a parent, caregiver, or legal custodian. However, a safety plan may not rely on promissory commitments by the parent, caregiver, or legal custodian who is currently not able to protect the child or on services that are not available or will not result in the safety of the child. A safety plan may not be implemented if for any reason the parents, guardian, or legal custodian lacks the capacity or ability to comply with the plan. If the department is not able to develop a plan that is specific, sufficient, feasible, and sustainable, the department shall file a shelter petition. A child protective investigator shall implement separate safety plans for the perpetrator of domestic violence, if the investigator, using reasonable efforts, can locate the perpetrator to implement a safety plan, and for the parent who is a victim of domestic violence as defined in s. 741.28. Reasonable efforts to locate a perpetrator include, but are not limited to, a diligent search pursuant to the same requirements as in s. 39.503. If the perpetrator of domestic violence is not the parent, guardian, or legal custodian of any child in the home and if the department does not intend to file a shelter petition or dependency petition that will assert allegations against the perpetrator as a parent of a child in the home, the child protective investigator shall seek issuance of an injunction authorized by s. 39.504 to implement a safety plan for the perpetrator and impose any other conditions to protect the child. The safety plan for the parent who is a victim of domestic violence may not be shared with the perpetrator. If any party to a safety plan fails to comply with the safety plan resulting in the child being unsafe, the department shall file a shelter petition.

b. The child protective investigator shall collaborate with the community-based care lead agency in the development of the safety plan as necessary to ensure that the safety plan is specific, sufficient, feasible, and sustainable. The child protective investigator shall identify services necessary for
the successful implementation of the safety plan. The child protective investigator and the community-based care lead agency shall mobilize service resources to assist all parties in complying with the safety plan. The community-based care lead agency shall prioritize safety plan services to families who have multiple risk factors, including, but not limited to, two or more of the following:

(I) The parent or legal custodian is of young age;
(II) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has a history of substance abuse, mental illness, or domestic violence;
(III) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has been previously found to have physically or sexually abused a child;
(IV) The parent or legal custodian or an adult currently living in or frequently visiting the home has been the subject of multiple allegations by reputable reports of abuse or neglect;
(V) The child is physically or developmentally disabled; or
(VI) The child is 3 years of age or younger.

c. The child protective investigator shall monitor the implementation of the plan to ensure the child's safety until the case is transferred to the lead agency at which time the lead agency shall monitor the implementation.

(b) For each report received from the central abuse hotline, the department or the sheriff providing child protective investigative services under s. 39.3065, shall determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's safety and well-being and development, and cause the delivery of those services through the early intervention of the department or its agent. Whenever a delay or disability of the child is suspected, the parent must be referred to a local child developmental screening program, such as the Child Find program of the Florida Diagnostic and Learning Resource System, for screening of the child. As applicable, child protective investigators must inform parents and caregivers how and when to use the injunction process under s. 741.30 to remove a perpetrator of domestic violence from the home as an intervention to protect the child.

1. If the department or the sheriff providing child protective investigative services determines that the interests of the child and the public will be best served by providing the child care or other treatment voluntarily accepted by the child and the parents or legal custodians, the parent or legal custodian and child may be referred for such care, case management, or other community resources.
2. If the department or the sheriff providing child protective investigative services determines that the child is in need of protection and supervision, the department may file a petition for dependency.
3. If a petition for dependency is not being filed by the department, the person or agency originating the report shall be advised of the right to file a petition pursuant to this part.
4. At the close of an investigation, the department or the sheriff providing child protective services shall provide to the person who is alleged to have caused the abuse, neglect, or abandonment and the parent or legal custodian a summary of findings from the investigation and provide information about their right to access
confidential reports in accordance with s. 39.202.

(10) (a) The department's training program for staff responsible for responding to reports accepted by the central abuse hotline must also ensure that child protective responders:
1. Know how to fully inform parents or legal custodians of their rights and options, including opportunities for audio or video recording of child protective responder interviews with parents or legal custodians or children.
2. Know how and when to use the injunction process under s. 39.504 or s. 741.30 to remove a perpetrator of domestic violence from the home as an intervention to protect the child.
3. Know how to explain to the parent, legal custodian, or person who is alleged to have caused the abuse, neglect, or abandonment the results of the investigation and to provide information about his or her right to access confidential reports in accordance with s. 39.202, prior to closing the case.
(b) To enhance the skills of individual staff members and to improve the region's and district's overall child protection system, the department's training program at the regional and district levels must include results of qualitative reviews of child protective investigation cases handled within the region or district in order to identify weaknesses as well as examples of effective interventions which occurred at each point in the case.
(c) For all reports received, detailed documentation is required for the investigative activities.

(11) The department shall incorporate into its quality assurance program the monitoring of reports that receive a child protective investigation to determine the quality and timeliness of safety assessments, engagements with families, teamwork with other experts and professionals, and appropriate investigative activities that are uniquely tailored to the safety factors associated with each child and family.

(12) If the department or its agent is denied reasonable access to a child by the parents, legal custodians, or caregivers and the department deems that the best interests of the child so require, it shall seek an appropriate court order or other legal authority before examining and interviewing the child.

(13) Onsite visits and face-to-face interviews with the child or family shall be unannounced unless it is determined by the department or its agent or contract provider that such unannounced visit would threaten the safety of the child.

(14) (a) If the department or its agent determines that a child requires immediate or long-term protection through medical or other health care or homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Intensive Crisis Counseling Program, such services shall first be offered for voluntary acceptance unless:
1. There are high-risk factors that may impact the ability of the parents or legal custodians to exercise judgment. Such factors may include the parents' or legal custodians' young age or history of substance abuse, mental illness, or domestic violence; or
2. There is a high likelihood of lack of compliance with voluntary services, and such noncompliance would result in the child being unsafe.
(b) The parents or legal custodians shall be informed of the right to refuse services, as well as the responsibility of the department to protect the child.
regardless of the acceptance or refusal of services. If the services are refused, a collateral contact shall include a relative, if the protective investigator has knowledge of and the ability to contact a relative. If the services are refused and the department deems that the child’s need for protection requires services, the department shall take the child into protective custody or petition the court as provided in this chapter. At any time after the commencement of a protective investigation, a relative may submit in writing to the protective investigator or case manager a request to receive notification of all proceedings and hearings in accordance with s. 39.502. The request shall include the relative’s name, address, and phone number and the relative’s relationship to the child. The protective investigator or case manager shall forward such request to the attorney for the department. The failure to provide notice to either a relative who requests it pursuant to this subsection or to a relative who is providing out-of-home care for a child may not result in any previous action of the court at any stage or proceeding in dependency or termination of parental rights under any part of this chapter being set aside, reversed, modified, or in any way changed absent a finding by the court that a change is required in the child’s best interests.

(c) The department, in consultation with the judiciary, shall adopt by rule:

1. Criteria that are factors requiring that the department take the child into custody, petition the court as provided in this chapter, or, if the child is not taken into custody or a petition is not filed with the court, conduct an administrative review. Such factors must include, but are not limited to, noncompliance with a safety plan or the case plan developed by the department, and the family under this chapter, and prior abuse reports with findings that involve the child, the child’s sibling, or the child’s caregiver.

2. Requirements that if after an administrative review the department determines not to take the child into custody or petition the court, the department shall document the reason for its decision in writing and include it in the investigative file. For all cases that were accepted by the local law enforcement agency for criminal investigation pursuant to subsection (2), the department must include in the file written documentation that the administrative review included input from law enforcement. In addition, for all cases that must be referred to child protection teams pursuant to s. 39.303(4) and (5), the file must include written documentation that the administrative review included the results of the team’s evaluation.

(15) When a child is taken into custody pursuant to this section, the authorized agent of the department shall request that the child’s parent, caregiver, or legal custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin, so far as are known.

(16) The department shall complete its protective investigation within 60 days after receiving the initial report, unless:

(a) There is also an active, concurrent criminal investigation that is continuing beyond the 60-day period and the closure of the protective investigation may compromise successful criminal prosecution of the child abuse or neglect case, in which case the closure date shall coincide with the closure date of the criminal investigation and any resulting legal action.

(b) In child death cases, the final report of the medical examiner is necessary for the department to close its investigation and the report has not been received within the 60-day period, in which case the report closure date shall be extended to accommodate the report.

(c) A child who is necessary to an investigation has been declared missing by the department, a law enforcement agency, or a court, in which case the
60-day period shall be extended until the child has been located or until sufficient information exists to close the investigation despite the unknown location of the child.

(17) Immediately upon learning during the course of an investigation that:
   (a) The immediate safety or well-being of a child is endangered;
   (b) The family is likely to flee;
   (c) A child died as a result of abuse, abandonment, or neglect;
   (d) A child is a victim of aggravated child abuse as defined in s. 827.03; or
   (e) A child is a victim of sexual battery or of sexual abuse,
the department shall notify the jurisdictionally responsible state attorney, and county sheriff's office or local police department, and, within 3 working days, transmit a full written report to those agencies. The law enforcement agency shall review the report and determine whether a criminal investigation needs to be conducted and shall assume lead responsibility for all criminal fact-finding activities. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding an offense described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

(18) In a child protective investigation or a criminal investigation, when the initial interview with the child is conducted at school, the department or the law enforcement agency may allow, notwithstanding s. 39.0132(4), a school staff member who is known by the child to be present during the initial interview if:
   (a) The department or law enforcement agency believes that the school staff member could enhance the success of the interview by his or her presence; and
   (b) The child requests or consents to the presence of the school staff member at the interview.
School staff may be present only when authorized by this subsection. Information received during the interview or from any other source regarding the alleged abuse or neglect of the child is confidential and exempt from s. 119.07(1), except as otherwise provided by court order. A separate record of the investigation of the abuse, abandonment, or neglect may not be maintained by the school or school staff member. Violation of this subsection is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(19) When a law enforcement agency conducts a criminal investigation into allegations of child abuse, neglect, or abandonment, photographs documenting the abuse or neglect shall be taken when appropriate.

(20) Within 15 days after the case is reported to him or her pursuant to this chapter, the state attorney shall report his or her findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(21) When an investigation is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers, except that a previous report may be used to determine whether a child is safe and what the known risk is to the child at any stage of a child protection proceeding.

(22) If, after having been notified of the requirement to report a change in residence or location of the child to the protective investigator, a parent or legal custodian
causes the child to move, or allows the child to be moved, to a different residence or location, or if the child leaves the residence on his or her own accord and the parent or legal custodian does not notify the protective investigator of the move within 2 business days, the child may be considered to be a missing child for the purposes of filing a report with a law enforcement agency under s. 937.021.

(23) If, at any time during a child protective investigation, a child is born into a family under investigation or a child moves into the home under investigation, the child protective investigator shall add the child to the investigation and assess the child’s safety pursuant to subsection (7) and paragraph (9)(a).

§ 39.302. Protective investigations of institutional child abuse, abandonment, or neglect.

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(32) or (48), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.201(5) and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child’s parent or legal guardian. The department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(2) (a) If in the course of the child protective investigation, the department finds that a subject of a report, by continued contact with children in care, constitutes a threatened harm to the physical health, mental health, or welfare of the children, the department may restrict a subject’s access to the children pending the outcome of the investigation. The department or its agent shall employ the least restrictive means necessary to safeguard the physical health, mental health, and welfare of the children in care. This authority shall apply only to child protective investigations in which there is some evidence that child abuse, abandonment, or neglect has occurred. A subject of a report whose access to children in care has been restricted is entitled to petition the circuit court for judicial review. The court shall enter written findings of fact based upon the preponderance of evidence that child abuse, abandonment, or neglect did occur and that the department’s restrictive action against a subject of the report was justified in order to safeguard the physical health, mental health, and welfare of the children in care. The restrictive action of the department shall be effective for no
more than 90 days without a judicial finding supporting the actions of the department.

(b) Upon completion of the department's child protective investigation, the department may make application to the circuit court for continued restrictive action against any person necessary to safeguard the physical health, mental health, and welfare of the children in care.

(3) Pursuant to the restrictive actions described in subsection (2), in cases of institutional abuse, abandonment, or neglect in which the removal of a subject of a report will result in the closure of the facility, and when requested by the owner of the facility, the department may provide appropriate personnel to assist in maintaining the operation of the facility. The department may provide assistance when it can be demonstrated by the owner that there are no reasonable alternatives to such action. The length of the assistance shall be agreed upon by the owner and the department; however, the assistance shall not be for longer than the course of the restrictive action imposed pursuant to subsection (2). The owner shall reimburse the department for the assistance of personnel provided.

(4) The department shall notify the Florida local advocacy council in the appropriate district of the department as to every report of institutional child abuse, abandonment, or neglect in the district in which a client of the department is alleged or shown to have been abused, abandoned, or neglected, which notification shall be made within 48 hours after the department commences its investigation.

(5) The department shall notify the state attorney and the appropriate law enforcement agency of any other child abuse, abandonment, or neglect case in which a criminal investigation is deemed appropriate by the department.

(6) In cases of institutional child abuse, abandonment, or neglect in which the multiplicity of reports of abuse, abandonment, or neglect or the severity of the allegations indicates the need for specialized investigation by the department in order to afford greater safeguards for the physical health, mental health, and welfare of the children in care, the department shall provide a team of persons specially trained in the areas of child abuse, abandonment, and neglect investigations, diagnosis, and treatment to assist the local office of the department in expediting its investigation and in making recommendations for restrictive actions and to assist in other ways deemed necessary by the department in order to carry out the provisions of this section. The specially trained team shall also provide assistance to any investigation of the allegations by local law enforcement and the Department of Law Enforcement.

(7) When an investigation of institutional abuse, neglect, or abandonment is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers.

(a) However, if such a person is a licensee of the department and is named in any capacity in three or more reports within a 5-year period, the department may review those reports and determine whether the information contained in the reports is relevant for purposes of determining whether the person's license should be renewed or revoked. If the information is relevant to the decision to renew or revoke the license, the department may rely on the information contained in the report in making that decision.

(b) Likewise, if a person is employed as a caregiver in a residential group home licensed pursuant to s. 409.175 and is named in any capacity in three or more reports within a 5-year period, the department may review all
reports for the purposes of the employment screening required pursuant to s. 409.145(2)(e).
§ 19-7-5. 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) Endangering a child;
       (D) Sexual abuse of a child; or
       (E) 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.
   (6.1) “Endangering a child” means:
       (A) Any act described by subsection (d) of Code Section 16-5-70;
       (B) Any act described by Code Section 16-5-73;
       (C) Any act described by subsection (l) of Code Section 40-6-391; or
       (D) Prenatal abuse, as such term is defined in Code Section 15-11-2.
   (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 the 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 such 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;
(I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure; or
(J) Any act described by subsection (c) of Code Section 16-5-46.
Sexual abuse shall include consensual sex acts when the sex acts are between minors if any individual is less than 14 years of age; provided, however, that it shall not include consensual sex acts when the sex acts are between a minor and an adult who is not more than four 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 a 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 that 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.

§ 15-11-131. Temporary protective custody of child by physician without court order and without parental consent; immunity.
Ga. Cod Ann. § 15-11-31

(a) Notwithstanding Code Section 15-11-133, a physician licensed to practice medicine in this state who is treating a child may take or retain temporary protective custody of such child, without a court order and without the consent of his or her parent, guardian, or legal custodian, provided that:
   (1) A physician has reasonable cause to believe that such child is in a circumstance or condition that presents an imminent danger to such child's life or health as a result of suspected abuse or neglect; or
   (2) There is reasonable cause to believe that such child has been abused or neglected and there is not sufficient time for a court order to be obtained for temporary custody of such child before such child may be removed from the presence of the physician.

(b) A physician holding a child in temporary protective custody shall:
   (1) Make reasonable and diligent efforts to inform the child's parents, guardian, or legal custodian of the whereabouts of such child;
   (2) As soon as possible, make a report of the suspected abuse or neglect which caused him or her to take temporary custody of the child and inform DFCS that such child has been held in temporary custody; and
   (3) Not later than 24 hours after such child is held in temporary custody:
      (A) Contact a juvenile court intake officer, and inform such intake officer that such child is in imminent danger to his or her life or health as a result of suspected abuse or neglect; or
      (B) Contact a law enforcement officer who shall take such child and promptly bring such child before a juvenile court intake officer.

(c) A child who meets the requirements for inpatient admission shall be retained in a hospital or institution until such time as such child is medically ready for discharge. Upon notification by the hospital or institution to DFCS that a child who is not eligible for inpatient admission or who is medically ready for discharge has been taken into custody by a physician and such child has been placed in DFCS custody, DFCS shall take physical custody of such child within six hours of being notified.

(d) If a juvenile court intake officer determines that a child is to be placed in foster care and the court orders that such child be placed in DFCS custody, then:
   (1) If such child remains in the physical care of the physician, DFCS shall take physical possession of such child within six hours of being notified by the physician, unless such child meets the criteria for admission to a hospital or other medical institution or facility; or
   (2) If such child has been brought before the court by a law enforcement officer, DFCS shall promptly take physical possession of such child.
(e) If a juvenile court intake officer determines that a child should not be placed in foster care, such child shall be released.

(f) If a child is placed in foster care, then the court shall notify such child’s parents, guardian, or legal custodian, the physician, and DFCS of the preliminary protective hearing which is to be held within 72 hours.

(g) If after the preliminary protective hearing a child is not released, DFCS shall file a petition alleging dependency in accordance with this article, provided that there is a continued belief that such child's life or health is in danger as a result of suspected abuse or neglect.

(h) Any hospital or physician authorized and acting in good faith and in accordance with acceptable medical practice in the treatment of a child under this Code section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of taking or failing to take any action pursuant to this Code section. This Code section shall not be construed as imposing any additional duty not already otherwise imposed by law.

§ 16-12-100. Sexual exploitation of children; reporting violation; civil forfeiture; penalties.

Ga. Code Ann., § 16-12-100

(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. Any person punished as provided in this paragraph shall, in addition, be subject to the
sentencing and punishment provisions of Code Section 17-10-6.2.
(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.

§ 49-5-41. Persons and agencies permitted access to records.
Ga. Code Ann., § 49-5-41

(a) Notwithstanding Code Section 49-5-40, the following persons or agencies shall have reasonable access to such records concerning reports of child abuse:
   (1) Any federal, state, or local governmental entity, tribal entity, or any agency of any such entity that has a need for information contained in such records in order to carry out its legal responsibilities to protect children from child abuse and neglect;
   (2) A grand jury by subpoena upon its determination that access to such records is necessary in the conduct of its official business;
   (3) A prosecuting attorney in this state or any other state or political subdivision thereof, or for the United States, who may seek such access in connection with official duty;
   (4) Any adult who makes a report of suspected child abuse as required by Code Section 19-7-5, but such access shall include only notification regarding the child concerning whom the report was made, shall disclose only whether the investigation by the department or governmental child protective agency of the reported abuse is ongoing or completed and, if completed, whether child abuse was confirmed or unconfirmed, and shall only be disclosed if requested by the person making the report;
   (5)
      (A) Any entity that receives from a school employee a report of suspected child abuse as required by Code Section 19-7-5.
      (B) Within 24 hours of receiving such report, such entity shall acknowledge, in writing, the receipt of such report to the reporting individual. Within five days of completing the investigation of the suspected child abuse, such entity shall disclose, in writing, to the school counselor for the school such child was attending at the time of the reported child abuse whether the suspected child abuse was confirmed or unconfirmed. If a school does not have a school counselor, such disclosure shall be made to the principal.
      (C) As used in this paragraph, the term:
         (i) “Entity” means a child welfare agency providing protective services as designated by the department or, in
the absence of such agency, a law enforcement agency or prosecuting attorney.
(ii) “School” shall have the same meaning as set forth in Code Section 19-7-5;

(6) Any adult requesting information regarding investigations by the department or a governmental child protective agency regarding the findings or information about the case of child abuse or neglect involving a fatality or near fatality; provided, however, that the following may be redacted from such records:

(A) Any record of law enforcement or prosecution agencies in any pending investigation or prosecution of criminal activity contained within the child abuse, neglect, or dependency records;
(A.1) Any part of a record of the department or a governmental child protective agency that includes information provided by law enforcement or prosecution agencies in any pending investigation or prosecution of criminal activity contained within the child abuse, neglect, or dependency records;
(B) Medical and mental health records made confidential by other provisions of law;
(C) Privileged communications of an attorney;
(D) The identifying information of a person who reported suspected child abuse;
(E) Information that may cause mental or physical harm to the sibling or other child living in the household of the child being investigated;
(F) The name of a child who is the subject of reported child abuse or neglect;
(G) The name of any parent or other person legally responsible for the child who is the subject of reported child abuse or neglect, provided that such person is not under investigation for the reported child abuse or neglect; and
(H) The name of any member of the household of the child who is the subject of reported child abuse or neglect, provided that such person is not under investigation for the reported child abuse or neglect;

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

(8) A child advocacy center that has a need for information contained in such records in order to carry out its legal responsibilities to protect children from child abuse or neglect;
(9) Police or any other law enforcement agency of this state or any other state or any medical examiner or coroner investigating a report of known or suspected child abuse or any review committee or protocol committee created pursuant to Chapter 15 of Title 19, it being found by the General Assembly that the disclosure of such information is necessary in order for such entities to carry out their legal responsibilities to protect children from child abuse and neglect, which protective actions include bringing criminal actions for such child abuse or neglect, and that such disclosure is therefore permissible and encouraged under the 1992 amendments to Section 107(b)(4) of the Child Abuse Prevention and Treatment Act, 42 U.S.C. Section 5106(A)(b)(4);
(10) The Governor, the Attorney General, the Lieutenant Governor, or the Speaker of the House of Representatives when such officer makes a written request to the commissioner which specifies the name of the child for whom such access is sought and which describes such officer's need to have access to such records in order to determine whether the laws of this state are being complied with to protect children from child abuse and neglect and whether such laws need to be changed to enhance such protection, for which purposes the General Assembly finds such disclosure is permissible and encouraged under the 1992 amendments to Section 107(b)(4) of the Child Abuse Prevention and Treatment Act, 42 U.S.C. Section 5106(A)(b)(4); and

(11) A court, by subpoena that is filed contemporaneously with a motion seeking records and requesting an in camera inspection of such records, may make such records available to a party seeking such records when:
(A) Such motion is filed;
(B) Such motion is served:
   (i) On all parties to the action;
   (ii) On the department or other entity that has possession of such records, as applicable; and
   (iii) In matters other than a dependency proceeding or a civil proceeding wherein there is no related pending criminal investigation or prosecution of criminal or unlawful activity, on the prosecuting attorney, as applicable; and
(C) After an in camera inspection of such records, the court finds that access to such records appears reasonably calculated to lead to the discovery of admissible evidence.

(b)

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

(2) The juvenile court to which an application is made pursuant to paragraph (1) of this subsection shall not grant the application unless:
(A) The application includes a description of the proposed research project, including a specific statement of the information required, the purpose for which the project requires that information, and a methodology to assure the information is not arbitrarily sought;
(B) The applicant carries the burden of showing the legitimacy of the research project; and
(C) Names and addresses of individuals, other than officials, employees, or agents of agencies receiving or investigating a report of abuse or treating a child or family which is the subject of a report, shall be deleted from any information released pursuant to this subsection unless the court determines that having the names and addresses open for review is essential to the research and the child, through his or her representative, gives permission to release the information.

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

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

1. A physician who has before him or her a child whom he or she reasonably suspects may be abused;
2. A licensed child-placing agency, a licensed child-caring institution of this state which is assisting the department by locating or providing foster or adoptive homes for children in the custody of the department, a licensed adoption agency of this or any other state which is placing a child for adoption, or an investigator appointed by a court of competent jurisdiction of this state to investigate a pending petition for adoption;
3. A person legally authorized to place a child in protective custody when such person has before him or her a child he or she reasonably suspects may be abused and such person requires the information in the record or report in order to determine whether to place the child in protective custody;
4. An agency or person having the legal custody, responsibility, or authorization to care for, treat, or supervise the child who is the subject of a report or record;
5. An agency, facility, or person having responsibility or authorization to assist in making a judicial determination for the child who is the subject of the report or record of child abuse, including but not limited to, members of officially recognized citizen review panels, court appointed guardians ad litem, certified court appointed special advocate (CASA) volunteers who are appointed by a judge of a juvenile court to act as advocates for the best interest of a child in a juvenile proceeding, and members of a protocol committee, as such term is defined in Code Section 19-15-1;
6. A legally mandated public child protective agency or law enforcement agency of another state bound by similar confidentiality provisions and requirements when, during or following the department's investigation of a report of child abuse, the alleged abuser has left this state;
7. A child welfare agency, as defined in Code Section 49-5-12, or a school where the department has investigated allegations of child abuse made against any employee of such agency or school and any child remains at risk from exposure to that employee, except that such access or release shall protect the identity of:
   A. Any person reporting the child abuse; and
   B. Any other person whose life or safety has been determined by the department or agency likely to be endangered if the identity were not so protected;
8. An employee of a school or employee of a child welfare agency, as defined in Code Section 49-5-12, against whom allegations of child abuse have been made, when the department has been unable to determine the extent of the employee's involvement in alleged child abuse against any child in the care of that school or agency. In those instances, upon receiving a request and signed release from the employee, the department may report its findings to the employer, except that such access or release shall protect the identity of:
   A. Any person reporting the child abuse; and
   B. Any other person whose life or safety has been determined by the department or agency likely to be endangered if the identity were not so protected;
9. Any person who has an ongoing relationship with the child named in the record or report of child abuse any part of which is to be disclosed to such person but only if that person is required to report suspected abuse of that child pursuant to subsection (b) of Code Section 19-7-5, as that subsection existed on January 1, 1990;
(10) Any school principal or any school guidance counselor, school social worker, or school psychologist who is certified under Chapter 2 of Title 20 and who is counseling a student as a part of such counseling person's school employment duties, but those records shall remain confidential and information obtained therefrom by that counseling person may not be disclosed to any person, except that student, not authorized under this Code section to obtain those records, and such unauthorized disclosure shall be punishable as a misdemeanor;

(10.1) Any school official of a school that a child who was the subject of a report of suspected child abuse made pursuant to Code Section 19-7-5 attends in which there is an ongoing investigation of the reported abuse. Any such ongoing investigation shall include contact with such school to obtain any relevant information from school personnel regarding the report of suspected child abuse;

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

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

(13) Local and state law enforcement agencies of this state, the Department of Community Supervision, probation officers serving pursuant to Article 6 of Chapter 8 of Title 42, the Department of Corrections, and the Department of Juvenile Justice when such entities, officers, or departments are providing supervision or services to individuals and families to whom the department is also providing services. Such access or release of records shall not be provided when prohibited by federal law or regulation. Access to such records may be provided electronically.

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

(e)

(1) Except as provided in paragraph (2) of this subsection and notwithstanding any other provisions of law, child abuse and dependency records shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50 if the records are applicable to a child who at the time of his or her fatality or near fatality was:

(A) In the custody of a state department or agency or in the care of a foster parent;
(B) A child as defined in paragraph (3) of Code Section 15-11-741; or
(C) The subject of an investigation, report, referral, or complaint under Code Section 15-11-743.

(2) The following may be redacted from such records:
(A) Medical and mental health records made confidential by other provisions of law;
(B) Privileged communications of an attorney;
(C) The identifying information of a person who reported suspected child abuse;
(D) The name of a child who suffered a near fatality;
(E) The name of any sibling of the child who suffered the fatality or near fatality;
(F) Any record of law enforcement or prosecution agencies in any pending investigation or prosecution of criminal activity contained within the child abuse, neglect, or dependency records; or
(G) Any part of a record of the department or a governmental child protective agency that includes information provided by law enforcement or prosecution agencies in any pending investigation or prosecution of criminal activity contained within the child abuse, neglect, or dependency records.

(3) Upon the release of documents pursuant to this subsection, the department may comment publicly on the case.

(f) Notwithstanding Code Section 49-5-40, a child who alleges that he or she was abused shall be permitted access to records concerning a report of child abuse allegedly committed against him or her which are in the custody of a child advocacy center, the department, or other state or local agency when he or she reaches 18 years of age; provided, however, that prior to such child reaching 18 years of age, if the requestor is not the subject of such records, such records shall be made available to such child's parent or legal guardian or a deceased child's duly appointed representative when the requestor or his or her attorney submits a sworn affidavit to the applicable child advocacy center, the department, or other state or local agency that attests that such information is relevant to a pending or proposed civil action relating to damages sustained by such child; and provided, further, that such records concerning a report of child abuse shall still be subject to confidentiality pursuant to paragraph (4) of subsection (a) of Code Section 50-18-72. Such records concerning a report of child abuse shall not be subject to release under paragraph (11) of subsection (a) of this Code section or subsection (g) of this Code section.

(g)

(1) A subpoena authorized under paragraph (11) of subsection (a) of this Code section shall be served on the prosecuting attorney who has jurisdiction over a pending investigation or prosecution of criminal or unlawful activity, if such information is known to the individual seeking such access or disclosure.
(2) A prosecuting attorney may intervene in an action involving a motion filed under paragraph (11) of subsection (a) of this Code section.
(3)

(A) When a court issues an order pursuant to paragraph (11) of subsection (a) of this Code section, the court shall issue a protective order to ensure the confidentiality of such records. Such protective order may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense and may include one or more of the following:
   (i) That the records not be reproduced except as authorized by court order;
   (ii) That the records be viewed or disclosed only on specified terms and conditions;
(iii) That the records be sealed and only opened by court order;
(iv) That the order be applicable to all parties, their counsel, and any agent or representative of a party; or
(v) That records released pursuant to such order be returned to the court upon completion of the matter that caused the production of such records.

(B) Any person who fails to obey a protective order issued under this subsection shall be punished as contempt by the court.
§ 350-1. Reports.

Haw. Rev. Stat. § 350-1.1

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

(1) Any licensed or registered professional of the healing arts or any health-related occupation who examines, attends, treats, or provides other professional or specialized services, including but not limited to physicians, including physicians in training, psychologists, dentists, nurses, osteopathic physicians and surgeons, optometrists, chiropractors, podiatrists, pharmacists, and other health-related professionals;

(2) Employees or officers of any public or private school;

(3) Employees or officers of any public or private agency or institution, or other individuals, providing social, medical, hospital, or mental health services, including financial assistance;

(4) Employees or officers of any law enforcement agency, including but not limited to the courts, police departments, department of public safety, correctional institutions, and parole or probation offices;

(5) Individual providers of child care, or employees or officers of any licensed or registered child care facility, foster home, or similar institution;

(6) Medical examiners or coroners; and

(7) Employees of any public or private agency providing recreational or sports activities.

(b) Whenever a person designated in subsection (a) is a member of the staff of any public or private school, agency, or institution, that staff member shall immediately report the known or suspected child abuse or neglect directly to the department or to the police department and also shall immediately notify the person in charge or a designated delegate of the report made in accordance with this chapter.

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

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

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

§ 350-1.15. Orientation and training.

Haw. Rev. Stat. § 350-1.15
To improve the identification of child abuse and neglect, the department shall offer periodic orientation and training to those responsible for making child abuse and neglect reports pursuant to section 350-1.1.

§ 350-1.2. Nonreporting; penalty.
*Haw. Rev. Stat. § 350-1.2*

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

§ 350-1.3. Any person may report.
*Haw. Rev. Stat. § 350-1.3*

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

§ 350-1.4. Confidentiality.
*Haw. Rev. Stat. § 350-1.4*

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

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

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

§ 350-1.5. Authorization for color photographs, x-rays, and radiological or other diagnostic examination.
*Haw. Rev. Stat. § 350-1.5*

(a) Any health professional or paraprofessional, physician licensed or authorized to practice medicine in this State, registered nurse or licensed practical nurse, hospital or similar institution's personnel engaged in the admission, examination, care, or treatment of patients, and any medical examiner, coroner, social worker, or police officer, who has before the person a child the person reasonably believes has been harmed, shall make every good faith effort to take or cause to be taken color photographs of the areas of trauma visible on the child. If medically indicated, such person may take or cause to be taken x-rays of the child or cause a radiological or other diagnostic examination to be performed on the child.

(b) Color photographs, x-rays, radiological, or other diagnostic examination reports
that show evidence of imminent harm, harm, or threatened harm to a child shall immediately be forwarded to the department.

§ 350-2. Action on reporting

(a) Upon receiving a report concerning child abuse or neglect, the department shall proceed pursuant to chapter 587A and the department's rules.

(b) The department shall inform the appropriate police department of all reports received by the department regarding a case of child abuse or neglect, including reports received under section 350-1.1; provided that the name of the person who reported the case of child abuse or neglect shall be released to the police department pursuant only to court order or the person's consent.

(c) The department shall inform the appropriate police department or office of the prosecuting attorney of the relevant information concerning a case of child abuse or neglect when the information is required by the police department or the office of the prosecuting attorney for the investigation or prosecution of that case; provided that the name of the person who reported the case of child abuse or neglect shall be released to the police department or the office of the prosecuting attorney pursuant only to court order or the person's consent.

(d) The department shall maintain a central registry of reported child abuse or neglect cases and shall promptly expunge the reports in cases if:
   (1) The report is determined not confirmed by the department, an administrative hearing officer, or a Hawaii state court on appeal; or
   (2) The petition arising from the report has been dismissed by order of the family court after an adjudicatory hearing on the merits pursuant to chapter 587A.

Records and information contained in a report that is expunged may be retained by the department solely for future risk and safety assessment purposes.

The department shall adopt rules as may be necessary in carrying out this section.

§ 350-3. Immunity from liability.

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

(b) Any individual who assumes a duty or responsibility pursuant to section 350-2 or chapter 587A shall have immunity from civil liability for acts or omissions performed within the scope of the individual's duty or responsibility. Nothing in this section shall limit the liability of the department, any other state agency, or any private organization for the conduct of individuals provided immunity herein.

§ 350-5. Admissibility of evidence.

The physician-patient privilege, the psychologist-client privilege, the spousal privilege, and the victim-counselor privilege shall not be grounds for excluding evidence in any judicial proceeding resulting from a report of child abuse or neglect pursuant to this chapter.
§ 16-1605. Reporting of abuse, abandonment, or neglect.
Idaho Code § 16-1605

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

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

(3) The notification requirements of subsection (1) of this section do not apply to a duly ordained minister of religion, with regard to any confession or confidential communication made to him in his ecclesiastical capacity in the course of discipline enjoined by the church to which he belongs if:
   (a) The church qualifies as tax-exempt under 26 U.S.C. section 501(c)(3);
   (b) The confession or confidential communication was made directly to the duly ordained minister of religion; and
   (c) The confession or confidential communication was made in the manner and context which places the duly ordained minister of religion specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine. A confession or confidential communication made under any other circumstances does not fall under this exemption.

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

§ 16-1606. Immunity.
Idaho Code § 16-1606

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

§ 16-1607. Reporting in bad faith – civil damages.
Idaho Code § 16-1607

Any person who makes a report or allegation of child abuse, abandonment or neglect
knowing the same to be false or who reports or alleges the same in bad faith or with malice shall be liable to the party or parties against whom the report was made for the amount of actual damages sustained or statutory damages of two thousand five hundred dollars ($2,500), whichever is greater, plus attorney's fees and costs of suit. If the court finds that the defendant acted with malice or oppression, the court may award treble actual damages or treble statutory damages, whichever is greater.

§ 16-1608. Emergency removal.
Idaho Code § 16-1608

(1)
(a) A child may be taken into shelter care by a peace officer without an order issued pursuant to subsection (4) of section 16-1611 or section 16-1619, Idaho Code, only where the child is endangered in his surroundings and prompt removal is necessary to prevent serious physical or mental injury to the child or where the child is an abandoned child pursuant to the provisions of chapter 82, title 39, Idaho Code.
(b) An alleged offender may be removed from the home of the victim of abuse or neglect by a peace officer without an order, issued pursuant to subsection (5) of section 16-1611, Idaho Code, only where the child is endangered and prompt removal of an alleged offender is necessary to prevent serious physical or mental injury to the child.

(2) When a child is taken into shelter care under subsection (1) of this section, he may be held for a maximum of forty-eight (48) hours, excluding Saturdays, Sundays and holidays, unless a shelter care hearing has been held pursuant to section 16-1615, Idaho Code, and the court orders an adjudicatory hearing.

(3) When an alleged offender is removed from the home under subsection (1)(b) of this section, a motion based on a sworn affidavit by the department must be filed simultaneously with the petition and the court shall determine at a shelter care hearing, held within a maximum of twenty-four (24) hours, excluding Saturdays, Sundays and holidays, whether the relief sought shall be granted, pending an adjudicatory hearing. Notice of such hearing shall be served upon the alleged offender at the time of removal or other protective relief.
§ 325 5/4. Persons required to report; privileged communications; transmitting false report.

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

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

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

If an allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child as defined in Section 3 of this Act, the member shall direct or cause the school board to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse. For purposes of this paragraph, a school board member is granted the authority in his or her individual capacity to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse.
Notwithstanding any other provision of this Act, if an employee of a school district has made a report or caused a report to be made to the Department under this Act involving the conduct of a current or former employee of the school district and a request is made by another school district for the provision of information concerning the job performance or qualifications of the current or former employee because he or she is an applicant for employment with the requesting school district, the general superintendent of the school district to which the request is being made must disclose to the requesting school district the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department, as required under this Act. Only the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department may be disclosed by the general superintendent of the school district to which the request for information concerning the applicant is made, and this fact may be disclosed only in cases where the employee and the general superintendent have not been informed by the Department that the allegations were unfounded. An employee of a school district who is or has been the subject of a report made pursuant to this Act during his or her employment with the school district must be informed by that school district that if he or she applies for employment with another school district, the general superintendent of the former school district, upon the request of the school district to which the employee applies, shall notify that requesting school district that the employee is or was the subject of such a report.

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

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

The reporting requirements of this Act shall not apply to the contents of a privileged communication between an attorney and his or her client or to confidential information within the meaning of Rule 1.6 of the Illinois Rules of Professional Conduct relating to the legal representation of an individual client.

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

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

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

Within one year of initial employment and at least every 5 years thereafter, school personnel required to report child abuse as provided under this Section must complete mandated reporter training by a provider or agency with expertise in recognizing and reporting child abuse.

The Department shall provide copies of this Act, upon request, to all employers employing persons who shall be required under the provisions of this Section to report under this Act.

Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the Criminal Code of 2012. A violation of this provision is a Class 4 felony.

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

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

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

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

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

§ 325 5/4.02. Failure to report; physician.

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


Any person required to report under this Act who has reasonable cause to suspect that a child has died as a result of abuse or neglect shall also immediately report his suspicion to the appropriate medical examiner or coroner. Any other person who has reasonable cause to believe that a child has died as a result of abuse or neglect may report his suspicion to the appropriate medical examiner or coroner. The medical examiner or coroner shall investigate the report and communicate his apparent gross findings, orally, immediately upon completion of the gross autopsy, but in all cases within 72 hours and within 21 days in writing, to the local law enforcement agency, the appropriate State's attorney, the Department and, if the institution making the report is a hospital, the hospital. The child protective investigator assigned to the death investigation shall have the right to require a copy of the completed autopsy report from the coroner or medical examiner.

§ 325 5/4.5. Electronic and information technology workers; reporting child pornography.

(a) In this Section:

“Child pornography” means child pornography as described in Section 11-20.1 of the Criminal Code of 2012.

“Electronic and information technology equipment” means equipment used in the creation, manipulation, storage, display, or transmission of data, including internet and intranet systems, software applications, operating systems, video and multimedia, telecommunications products, kiosks, information transaction machines, copiers, printers, and desktop and portable computers.

“Electronic and information technology equipment worker” means a person who in the scope and course of his or her employment or business installs, repairs, or otherwise services electronic and information technology equipment for a fee but does not include (i) an employee, independent contractor, or other agent of a telecommunications carrier or telephone or telecommunications cooperative, as those terms are defined in the Public Utilities Act, or (ii) an employee, independent contractor, or other agent of a
provider of commercial mobile radio service, as defined in 47 C.F.R. 20.3.

(b) If an electronic and information technology equipment worker discovers any depiction of child pornography while installing, repairing, or otherwise servicing an item of electronic and information technology equipment, that worker or the worker's employer shall immediately report the discovery to the local law enforcement agency or to the Cyber Tipline at the National Center for Missing & Exploited Children.

(c) If a report is filed in accordance with the requirements of 42 U.S.C. 13032, the requirements of this Section 4.5 will be deemed to have been met.

(d) An electronic and information technology equipment worker or electronic and information technology equipment worker's employer who reports a discovery of child pornography as required under this Section is immune from any criminal, civil, or administrative liability in connection with making the report, except for willful or wanton misconduct.

(e) Failure to report a discovery of child pornography as required under this Section is a business offense subject to a fine of $1,001.

§ 325 5/5. Emergency custody, activities connected to reports, immunity for activities.

An officer of a local law enforcement agency, designated employee of the Department, or a physician treating a child may take or retain temporary protective custody of the child without the consent of the person responsible for the child's welfare, if (1) he has reason to believe that the child cannot be cared for at home or in the custody of the person responsible for the child's welfare without endangering the child's health or safety; and (2) there is not time to apply for a court order under the Juvenile Court Act of 1987 for temporary custody of the child. The person taking or retaining a child in temporary protective custody shall immediately make every reasonable effort to notify the person responsible for the child's welfare and shall immediately notify the Department. The Department shall provide to the temporary caretaker of a child any information in the Department's possession concerning the positive results of a test performed on the child to determine the presence of the antibody or antigen to Human Immunodeficiency Virus (HIV), or of HIV infection, as well as any communicable diseases or communicable infections that the child has. The temporary caretaker of a child shall not disclose to another person any information received by the temporary caretaker from the Department concerning the results of a test performed on the child to determine the presence of the antibody or antigen to HIV, or of HIV infection, except pursuant to Section 9 of the AIDS Confidentiality Act, as now or hereafter amended. The Department shall promptly initiate proceedings under the Juvenile Court Act of 1987 for the continued temporary custody of the child.

Where the physician keeping a child in his custody does so in his capacity as a member of the staff of a hospital or similar institution, he shall notify the person in charge of the institution or his designated agent, who shall then become responsible for the further care of such child in the hospital or similar institution under the direction of the Department.

Said care includes, but is not limited to the granting of permission to perform emergency medical treatment to a minor where the treatment itself does not involve a substantial risk of harm to the minor and the failure to render such treatment will likely result in death or permanent harm to the minor, and there is not time to apply for a court order under the Juvenile Court Act of 1987.
Any person authorized and acting in good faith in the removal of a child under this Section shall have immunity from any liability, civil or criminal that might otherwise be incurred or imposed as a result of such removal. Any physician authorized and acting in good faith and in accordance with acceptable medical practice in the treatment of a child under this Section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of granting permission for emergency treatment.

With respect to any child taken into temporary protective custody pursuant to this Section, the Department of Children and Family Services Guardianship Administrator or his designee shall be deemed the child's legally authorized representative for purposes of consenting to an HIV test if deemed necessary and appropriate by the Department's Guardianship Administrator or designee and obtaining and disclosing information concerning such test pursuant to the AIDS Confidentiality Act if deemed necessary and appropriate by the Department's Guardianship Administrator or designee and for purposes of consenting to the release of information pursuant to the Illinois Sexually Transmissible Disease Control Act if deemed necessary and appropriate by the Department's Guardianship Administrator or designee.

Any person who administers an HIV test upon the consent of the Department of Children and Family Services Guardianship Administrator or his designee, or who discloses the results of such tests to the Department's Guardianship Administrator or his designee, shall have immunity from any liability, civil, criminal or otherwise, that might result by reason of such actions. For the purpose of any proceedings, civil or criminal, the good faith of any persons required to administer or disclose the results of tests, or permitted to take such actions, shall be presumed.

§ 325 5/7. Time and manner of making reports.

All reports of suspected child abuse or neglect made under this Act shall be made immediately by telephone to the central register established under Section 7.7 on the single, State-wide, toll-free telephone number established in Section 7.6, or in person or by telephone through the nearest Department office. The Department shall, in cooperation with school officials, distribute appropriate materials in school buildings listing the toll-free telephone number established in Section 7.6, including methods of making a report under this Act. The Department may, in cooperation with appropriate members of the clergy, distribute appropriate materials in churches, synagogues, temples, mosques, or other religious buildings listing the toll-free telephone number established in Section 7.6, including methods of making a report under this Act.

Wherever the Statewide number is posted, there shall also be posted the following notice:

“Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the Criminal Code of 2012. A violation of this subsection is a Class 4 felony.”

The report required by this Act shall include, if known, the name and address of the child and his parents or other persons having his custody; the child's age; the nature of the child's condition including any evidence of previous injuries or disabilities; and any other information that the person filing the report believes might be helpful in establishing the cause of such abuse or neglect and the identity of the person believed to have caused such abuse or neglect. Reports made to the central register through the State-wide, toll-free telephone number shall be immediately transmitted by the Department to the appropriate Child Protective Service Unit. All such reports alleging the death of a child, serious injury to a child including, but not limited to, brain damage, skull fractures, subdural hematomas, and internal injuries, torture of a child, malnutrition of a child, and sexual abuse to a child, including, but not limited to, sexual intercourse, sexual exploitation, sexual molestation, and sexually transmitted disease in a child age
12 and under, shall also be immediately transmitted by the Department to the appropriate local law enforcement agency. The Department shall within 24 hours orally notify local law enforcement personnel and the office of the State's Attorney of the involved county of the receipt of any report alleging the death of a child, serious injury to a child including, but not limited to, brain damage, skull fractures, subdural hematomas, and, internal injuries, torture of a child, malnutrition of a child, and sexual abuse to a child, including, but not limited to, sexual intercourse, sexual exploitation, sexual molestation, and sexually transmitted disease in a child age twelve and under. All oral reports made by the Department to local law enforcement personnel and the office of the State's Attorney of the involved county shall be confirmed in writing within 24 hours of the oral report. All reports by persons mandated to report under this Act shall be confirmed in writing to the appropriate Child Protective Service Unit, which may be on forms supplied by the Department, within 48 hours of any initial report.

Written confirmation reports from persons not required to report by this Act may be made to the appropriate Child Protective Service Unit. Written reports from persons required by this Act to report shall be admissible in evidence in any judicial proceeding or administrative hearing relating to child abuse or neglect. Reports involving known or suspected child abuse or neglect in public or private residential agencies or institutions shall be made and received in the same manner as all other reports made under this Act.

For purposes of this Section "child" includes an adult resident as defined in this Act.

§ 325 5/7.3b. Reporting addicted pregnant persons.
325 Ill. Comp. Stat. Ann. § 5/7.3b

All persons required to report under Section 4 may refer to the Department of Human Services any pregnant person in this State who is addicted as defined in the Alcoholism and Other Drug Abuse and Dependency Act. The Department of Human Services shall notify the local Infant Mortality Reduction Network service provider or Department funded prenatal care provider in the area in which the person resides. The service provider shall prepare a case management plan and assist the pregnant woman in obtaining counseling and treatment from a local substance abuse service provider licensed by the Department of Human Services or a licensed hospital which provides substance abuse treatment services. The local Infant Mortality Reduction Network service provider and Department funded prenatal care provider shall monitor the pregnant woman through the service program. The Department of Human Services shall have the authority to promulgate rules and regulations to implement this Section.

§ 325 5/7.4. Department responsibilities; investigating reports.
325 Ill. Comp. Stat. Ann. § 5/7.4

The Department shall be capable of receiving reports of suspected child abuse or neglect 24 hours a day, 7 days a week. Whenever the Department receives a report alleging that a child is a truant as defined in Section 26-2a of The School Code, as now or hereafter amended, the Department shall notify the superintendent of the school district in which the child resides and the appropriate superintendent of the educational service region. The notification to the appropriate officials by the Department shall not be considered an allegation of abuse or neglect under this Act.

(a-5) Beginning January 1, 2010, the Department of Children and Family Services may implement a 5-year demonstration of a “differential response program” in accordance with criteria, standards, and procedures prescribed by rule. The program may provide that, upon receiving a report, the Department shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy
for child abuse or neglect.

For purposes of this subsection (a-5), “family assessment” means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. “Family assessment” does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

For purposes of this subsection (a-5), “investigation” means fact-gathering related to the current safety of a child and the risk of subsequent abuse or neglect that determines whether a report of suspected child abuse or neglect should be indicated or unfounded and whether child protective services are needed.

Under the “differential response program” implemented under this subsection (a-5), the Department:

1. Shall conduct an investigation on reports involving substantial child abuse or neglect.
2. Shall begin an immediate investigation if, at any time when it is using a family assessment response, it determines that there is reason to believe that substantial child abuse or neglect or a serious threat to the child’s safety exists.
3. May conduct a family assessment for reports that do not allege substantial child endangerment. In determining that a family assessment is appropriate, the Department may consider issues including, but not limited to, child safety, parental cooperation, and the need for an immediate response.
4. Shall promulgate criteria, standards, and procedures that shall be applied in making this determination, taking into consideration the Child Endangerment Risk Assessment Protocol of the Department.
5. May conduct a family assessment on a report that was initially screened and assigned for an investigation.

In determining that a complete investigation is not required, the Department must document the reason for terminating the investigation and notify the local law enforcement agency or the Department of State Police if the local law enforcement agency or Department of State Police is conducting a joint investigation.

Once it is determined that a “family assessment” will be implemented, the case shall not be reported to the central register of abuse and neglect reports.

During a family assessment, the Department shall collect any available and relevant information to determine child safety, risk of subsequent abuse or neglect, and family strengths.

Information collected includes, but is not limited to, when relevant: information with regard to the person reporting the alleged abuse or neglect, including the nature of the reporter’s relationship to the child and to the alleged offender, and the basis of the reporter’s knowledge for the report; the child allegedly being abused or neglected; the alleged offender; the child’s caretaker; and other collateral sources having relevant information related to the alleged abuse or neglect. Information relevant to the assessment must be asked for, and may include:

A. The child’s sex and age, prior reports of abuse or neglect, information relating to developmental functioning, credibility of the child’s statement, and whether the information provided under this paragraph (A) is consistent with other information collected during the course of the assessment or investigation.
The alleged offender’s age, a record check for prior reports of abuse or neglect, and criminal charges and convictions. The alleged offender may submit supporting documentation relevant to the assessment.

Collateral source information regarding the alleged abuse or neglect and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or care of the child maintained by any facility, clinic, or health care professional, and an interview with the treating professionals; and (iii) interviews with the child’s caretakers, including the child’s parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child.

Information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this subsection (a-5) precludes the Department from collecting other relevant information necessary to conduct the assessment or investigation. Nothing in this subsection (a-5) shall be construed to allow the name or identity of a reporter to be disclosed in violation of the protections afforded under Section 7.19 of this Act.

After conducting the family assessment, the Department shall determine whether services are needed to address the safety of the child and other family members and the risk of subsequent abuse or neglect.

Upon completion of the family assessment, if the Department concludes that no services shall be offered, then the case shall be closed. If the Department concludes that services shall be offered, the Department shall develop a family preservation plan and offer or refer services to the family.

At any time during a family assessment, if the Department believes there is any reason to stop the assessment and conduct an investigation based on the information discovered, the Department shall do so.

The procedures available to the Department in conducting investigations under this Act shall be followed as appropriate during a family assessment.

The Department shall arrange for an independent evaluation of the “differential response program” authorized and implemented under this subsection (a-5) to determine whether it is meeting the goals in accordance with Section 2 of this Act. The Department may adopt administrative rules necessary for the execution of this Section, in accordance with Section 4 of the Children and Family Services Act.

The demonstration conducted under this subsection (a-5) shall become a permanent program on July 1, 2016, upon completion of the demonstration project period.

(1) The following procedures shall be followed in the investigation of all reports of suspected abuse or neglect of a child, except as provided in subsection (c) of this Section.

(2) If, during a family assessment authorized by subsection (a-5) or an investigation, it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child disappear, or that the facts otherwise so warrant, the Child Protective Service Unit shall commence an investigation immediately, regardless of the time of day or night. All other investigations shall be commenced within 24 hours of receipt of the report. Upon receipt of a report, the Child Protective Service Unit shall conduct a family assessment authorized by subsection (a-5) or begin an initial investigation and make an initial determination whether the report is a good
faith indication of alleged child abuse or neglect.

(3) Based on an initial investigation, if the Unit determines the report is a good faith indication of alleged child abuse or neglect, then a formal investigation shall commence and, pursuant to Section 7.12 of this Act, may or may not result in an indicated report. The formal investigation shall include: direct contact with the subject or subjects of the report as soon as possible after the report is received; an evaluation of the environment of the child named in the report and any other children in the same environment; a determination of the risk to such children if they continue to remain in the existing environments, as well as a determination of the nature, extent and cause of any condition enumerated in such report; the name, age and condition of other children in the environment; and an evaluation as to whether there would be an immediate and urgent necessity to remove the child from the environment if appropriate family preservation services were provided. After seeing to the safety of the child or children, the Department shall forthwith notify the subjects of the report in writing, of the existence of the report and their rights existing under this Act in regard to amendment or expungement. To fulfill the requirements of this Section, the Child Protective Service Unit shall have the capability of providing or arranging for comprehensive emergency services to children and families at all times of the day or night.

(4) If (i) at the conclusion of the Unit's initial investigation of a report, the Unit determines the report to be a good faith indication of alleged child abuse or neglect that warrants a formal investigation by the Unit, the Department, any law enforcement agency or any other responsible agency and (ii) the person who is alleged to have caused the abuse or neglect is employed or otherwise engaged in an activity resulting in frequent contact with children and the alleged abuse or neglect are in the course of such employment or activity, then the Department shall, except in investigations where the Director determines that such notification would be detrimental to the Department's investigation, inform the appropriate supervisor or administrator of that employment or activity that the Unit has commenced a formal investigation pursuant to this Act, which may or may not result in an indicated report. The Department shall also notify the person being investigated, unless the Director determines that such notification would be detrimental to the Department's investigation.

(c) In an investigation of a report of suspected abuse or neglect of a child by a school employee at a school or on school grounds, the Department shall make reasonable efforts to follow the following procedures:

(1) Investigations involving teachers shall not, to the extent possible, be conducted when the teacher is scheduled to conduct classes. Investigations involving other school employees shall be conducted so as to minimize disruption of the school day. The school employee accused of child abuse or neglect may have his superior, his association or union representative and his attorney present at any interview or meeting at which the teacher or administrator is present. The accused school employee shall be informed by a representative of the Department, at any interview or meeting, of the accused school employee's due process rights and of the steps in the investigation process. The information shall include, but need not necessarily be limited to the right, subject to the approval of the Department, of the school employee to confront the accuser, if the accuser is 14 years of age or older, or the right to review the specific allegations which gave rise to the investigation, and the right to review all materials and evidence that have been submitted to the Department in support of the allegation. These due process rights shall also include the right of the school employee to present countervailing evidence regarding the accusations.

(2) If a report of neglect or abuse of a child by a teacher or administrator
does not involve allegations of sexual abuse or extreme physical abuse, the Child Protective Service Unit shall make reasonable efforts to conduct the initial investigation in coordination with the employee's supervisor. If the Unit determines that the report is a good faith indication of potential child abuse or neglect, it shall then commence a formal investigation under paragraph (3) of subsection (b) of this Section.

(3) If a report of neglect or abuse of a child by a teacher or administrator involves an allegation of sexual abuse or extreme physical abuse, the Child Protective Unit shall commence an investigation under paragraph (2) of subsection (b) of this Section.

(c-5) In any instance in which a report is made or caused to be made by a school district employee involving the conduct of a person employed by the school district, at the time the report was made, as required under Section 4 of this Act, the Child Protective Service Unit shall send a copy of its final finding report to the general superintendent of that school district.

(d) If the Department has contact with an employer, or with a religious institution or religious official having supervisory or hierarchical authority over a member of the clergy accused of the abuse of a child, in the course of its investigation, the Department shall notify the employer or the religious institution or religious official, in writing, when a report is unfounded so that any record of the investigation can be expunged from the employee's or member of the clergy's personnel or other records. The Department shall also notify the employee or the member of the clergy, in writing, that notification has been sent to the employer or to the appropriate religious institution or religious official informing the employer or religious institution or religious official that the Department's investigation has resulted in an unfounded report.

(e) Upon request by the Department, the Department of State Police and law enforcement agencies are authorized to provide criminal history record information as defined in the Illinois Uniform Conviction Information Act and information maintained in the adjudicatory and dispositional record system as defined in Section 2605-355 of the Department of State Police Law (20 ILCS 2605/2605-355) to properly designated employees of the Department of Children and Family Services if the Department determines the information is necessary to perform its duties under the Abused and Neglected Child Reporting Act, the Child Care Act of 1969, and the Children and Family Services Act. The request shall be in the form and manner required by the Department of State Police. Any information obtained by the Department of Children and Family Services under this Section is confidential and may not be transmitted outside the Department of Children and Family Services other than to a court of competent jurisdiction or unless otherwise authorized by law. Any employee of the Department of Children and Family Services who transmits confidential information in violation of this Section or causes the information to be transmitted in violation of this Section is guilty of a Class A misdemeanor unless the transmittal of the information is authorized by this Section or otherwise authorized by law.

(f) For purposes of this Section "child abuse or neglect" includes abuse or neglect of an adult resident as defined in this Act.

§ 325 5/7.8. Access to information in central register.

Upon receiving an oral or written report of suspected child abuse or neglect, the Department shall immediately notify, either orally or electronically, the Child Protective Service Unit of a previous report concerning a subject of the present report or other pertinent information. In addition, upon satisfactory identification
procedures, to be established by Department regulation, any person authorized to have access to records under Section 11.1 relating to child abuse and neglect may request and shall be immediately provided the information requested in accordance with this Act. However, no information shall be released unless it prominently states the report is “indicated,” and only information from “indicated” reports shall be released, except that information concerning pending reports may be released pursuant to Sections 7.14 and 7.22 of this Act to the attorney or guardian ad litem appointed under Section 2-17 of the Juvenile Court Act of 1987 and to any person authorized under paragraphs (1), (2), (3) and (11) of Section 11.1. In addition, State’s Attorneys are authorized to receive unfounded reports (i) for prosecution purposes related to the transmission of false reports of child abuse or neglect in violation of subsection (a), paragraph (7) of Section 26-1 of the Criminal Code of 2012 or (ii) for the purposes of screening and prosecuting a petition filed under Article II of the Juvenile Court Act of 1987 alleging a subsequent allegation of abuse or neglect relating to the same child, a sibling of the child, or the same perpetrator; the parties to the proceedings filed under Article II of the Juvenile Court Act of 1987 are entitled to receive copies of previously unfounded reports regarding the same child, a sibling of the child, or the same perpetrator for purposes of hearings under Sections 2-10 and 2-21 of the Juvenile Court Act of 1987, and attorneys and guardians ad litem appointed under Article II of the Juvenile Court Act of 1987 shall receive the reports set forth in Section 7.14 of this Act in conformance with paragraph (19) of Section 11.1 and Section 7.14 of this Act. The Department is authorized and required to release information from unfounded reports, upon request by a person who has access to the unfounded report as provided in this Act, as necessary in its determination to protect children and adult residents who are in child care facilities licensed by the Department under the Child Care Act of 1969. The names and other identifying data and the dates and the circumstances of any persons requesting or receiving information from the central register shall be entered in the register record.


The Department shall prepare, print, and distribute initial, preliminary, and final reporting forms to each Child Protective Service Unit. Initial written reports from the reporting source shall contain the following information to the extent known at the time the report is made: (1) the names and addresses of the child and his parents or other persons responsible for his welfare; (1.5) the name and address of the school that the child attends (or the school that the child last attended, if the report is written during the summer when school is not in session), and the name of the school district in which the school is located, if applicable; (2) the child's age, sex, and race; (3) the nature and extent of the child's abuse or neglect, including any evidence of prior injuries, abuse, or neglect of the child or his siblings; (4) the names of the persons apparently responsible for the abuse or neglect; (5) family composition, including names, ages, sexes, and races of other children in the home; (6) the name of the person making the report, his occupation, and where he can be reached; (7) the actions taken by the reporting source, including the taking of photographs and x-rays, placing the child in temporary protective custody, or notifying the medical examiner or coroner; and (8) any other information the person making the report believes might be helpful in the furtherance of the purposes of this Act.

§ 325 5/7.10. Oral reports - preliminary reports.

Upon the receipt of each oral report made under this Act, the Child Protective Service Unit shall immediately transmit a copy thereof to the state central register of child abuse and neglect. A preliminary report from a Child Protective Service Unit shall be made at the time of the first of any 30-day extensions made pursuant to Section 7.12 and shall describe the status of the related investigation up to that time, including
an evaluation of the present family situation and danger to the child or children, corrections or up-dating of the initial report, and actions taken or contemplated.

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

§ 325 5/7.9. Subject of report; access to records.

Upon request, a subject of a report shall be entitled to receive a copy of all information contained in the central register pertaining to his case. However, the Department may prohibit the release of data that would identify or locate a person who, in good faith, made a report or cooperated in a subsequent investigation. In addition, the Department may seek a court order from the circuit court prohibiting the release of any information which the court finds is likely to be harmful to the subject of the report.

§ 325 5/9 Immunity for good faith reporting.

Any person, institution or agency, under this Act, participating in good faith in the making of a report or referral, or in the investigation of such a report or referral or in the taking of photographs and x-rays or in the retaining a child in temporary protective custody or in making a disclosure of information concerning reports of child abuse and neglect in compliance with Sections 4.2 and 11.1 of this Act or Section 4 of this Act, as it relates to disclosure by school personnel and except in cases of willfull or wanton misconduct, shall have immunity from any liability, civil, criminal or that otherwise might result by reason of such actions. For the purpose of any proceedings, civil or criminal, the good faith of any persons required to report or refer, or permitted to report, cases of suspected child abuse or neglect or permitted to refer individuals under this Act or required to disclose information concerning reports of child abuse and neglect in compliance with Sections 4.2 and 11.1 of this Act, shall be presumed. For purposes of this Section “child abuse and neglect” includes abuse or neglect of an adult resident as defined in this Act.


No employer shall discharge, demote or suspend, or threaten to discharge, demote or suspend, or in any manner discriminate against any employee who makes any good faith oral or written report of suspected child abuse or neglect, or who is or will be a witness or testify in any investigation or proceeding concerning a report of suspected child abuse or neglect. For purposes of this Section “child abuse or neglect” includes abuse or neglect of an adult resident as defined in this Act.

§ 325 5/10. Evidentiary privileges; applicability to those required to report.

Any person who makes a report or who investigates a report under this Act shall testify fully in any judicial proceeding or administrative hearing resulting from such report, as to any evidence of abuse or neglect, or the cause thereof. Any person who is required to report a suspected case of abuse or neglect under Section 4 of this Act shall testify fully in any administrative hearing resulting from such report, as to any evidence of abuse or neglect or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged perpetrator of abuse or neglect, or the child subject of the report under this Act and any person who is required to report a suspected case of abuse or
neglect under Section 4 of this Act or the person making or investigating the report.

§ 325 5/11. Confidentiality of abuse records; exceptions.

All records concerning reports of child abuse and neglect or records concerning referrals under this Act and all records generated as a result of such reports or referrals, shall be confidential and shall not be disclosed except as specifically authorized by this Act or other applicable law. It is a Class A misdemeanor to permit, assist, or encourage the unauthorized release of any information contained in such reports, referrals or records.

Nothing contained in this Section prevents the sharing or disclosure of records relating or pertaining to the death of a minor under the care of or receiving services from the Department of Children and Family Services and under the jurisdiction of the juvenile court with the juvenile court, the State's Attorney, and the minor's attorney. For purposes of this Section “child abuse and neglect” includes abuse or neglect of an adult resident as defined in this Act.


(a) The Director or a person designated in writing by the Director for this purpose may disclose information regarding the abuse or neglect of a child as set forth in this Section, the investigation thereof, and any services related thereto, if he or she determines that such disclosure is not contrary to the best interests of the child, the child's siblings, or other children in the household, and one of the following factors are present:

(1) The subject of the report has been criminally charged with committing a crime related to the child abuse or neglect report; or
(2) A law enforcement agency or official, a State's Attorney, or a judge of the State court system has publicly disclosed in a report as part of his or her official duty, information regarding the investigation of a report or the provision of services by the Department; or
(3) An adult subject of the report has knowingly and voluntarily made a public disclosure concerning a Child Abuse and Neglect Tracking System report; or
(4) The child named in the report has been critically injured or died.

(b) Information may be disclosed pursuant to this Section as follows:
(1) The name of the alleged abused or neglected child.
(2) The current status of the investigation, including whether a determination of credible evidence has been made.
(3) Identification of child protective or other services provided or actions taken regarding the child named in the report and his or her family as a result of this report.
(4) Whether there have been past reports of child abuse or neglect involving this child or family, or both. Any such reports shall be clearly identified as being “Indicated”, “Unfounded”, or “Pending”.
(5) Whether the Department has a current or past open service case with the family, and a history of what types of services have been, or are being, provided.
(6) Any extraordinary or pertinent information concerning the circumstances of the report, if the Director determines such disclosure is consistent with the public interest.

c) Any disclosure of information pursuant to this Section shall not identify the name of or provide identifying information regarding the source of the report.
(d) In determining pursuant to subsection (a) of this Section, whether disclosure will be contrary to the best interests of the child, the child's siblings, or other children in the household, the Director shall consider the interest in privacy of the child and the child's family and the effects which disclosure may have on efforts to reunite and provide services to the family.

(e) Except as it applies directly to the cause of the abuse or neglect of the child, nothing in this Section shall be deemed to authorize the release or disclosure of the substance or content of any psychological, psychiatric, therapeutic, clinical, or medical reports, evaluations, or like materials pertaining to the child or the child's family. Prior to the release or disclosure of any psychological, psychiatric, or therapeutic reports pursuant to this subsection, the Deputy Director of Clinical Services shall review such materials and make recommendations regarding its release. Any disclosure of information pursuant to this Section shall not identify the health care provider, health care facility or other maker of the report or source of any psychological, psychiatric, therapeutic, clinical, or medical reports, evaluations, or like materials.

(f) Regarding child abuse or neglect reports which occur at a facility licensed by the Department of Children and Family Services, only the following information may be disclosed or released:

(1) The name of the facility.
(2) The nature of the allegations of abuse or neglect.
(3) The number and ages of child victims involved, and their relationship to the perpetrator.
(4) Actions the Department has taken to ensure the safety of the children during and subsequent to the investigation.
(5) The final finding status of the investigation.

§ 325 5/11.2. Disclosure to mandated reporting source.

A mandated reporting source as provided in Section 4 of this Act may receive appropriate information about the findings and actions taken by the Child Protective Service Unit in response to its report. The information shall include the actions taken by the Child Protective Service Unit to ensure a child's safety.

§ 325 5/11.5. Training and education.

Within the appropriation available, the Department shall conduct a continuing education and training program for State and local staff, persons and officials required to report, the general public, and other persons engaged in or intending to engage in the prevention, identification, and treatment of child abuse and neglect. The program shall be designed to encourage the fullest degree of reporting of known and suspected child abuse and neglect, and to improve communication, cooperation, and coordination among all agencies in the identification, prevention, and treatment of child abuse and neglect. The program shall inform the general public and professionals of the nature and extent of child abuse and neglect and their responsibilities, obligations, powers and immunity from liability under this Act. It may include information on the diagnosis of child abuse and neglect and the roles and procedures of the Child Protective Service Unit, the Department and central register, the courts and of the protective, treatment, and ameliorative services available to children and their families. Such information may also include special needs of mothers at risk of delivering a child whose life or development may be threatened by a disabling condition, to ensure informed consent to treatment of the condition and understanding of the unique child care responsibilities required for such a child. The program may also encourage parents and other persons having responsibility...
for the welfare of children to seek assistance on their own in meeting their child care responsibilities and encourage the voluntary acceptance of available services when they are needed. It may also include publicity and dissemination of information on the existence and number of the 24 hour, State-wide, toll-free telephone service to assist persons seeking assistance and to receive reports of known and suspected abuse and neglect.

Within the appropriation available, the Department also shall conduct a continuing education and training program for State and local staff involved in investigating reports of child abuse or neglect made under this Act. The program shall be designed to train such staff in the necessary and appropriate procedures to be followed in investigating cases which it appears may result in civil or criminal charges being filed against a person. Program subjects shall include but not be limited to the gathering of evidence with a view toward presenting such evidence in court and the involvement of State or local law enforcement agencies in the investigation. The program shall be conducted in cooperation with State or local law enforcement agencies, State's Attorneys and other components of the criminal justice system as the Department deems appropriate.

§ 720 5/11-9.1B. Failure to report sexual abuse of a child.

(a) For the purposes of this Section:
“Child” means any person under the age of 13.
“Sexual abuse” means any contact, however slight, between the sex organ or anus of the victim or the accused and an object or body part, including, but not limited to, the sex organ, mouth, or anus of the victim or the accused, or any intrusion, however slight, of any part of the body of the victim or the accused or of any animal or object into the sex organ or anus of the victim or the accused, including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual abuse.

(b) A person over the age of 18 commits failure to report sexual abuse of a child when he or she personally observes sexual abuse, as defined by this Section, between a person who he or she knows is over the age of 18 and a person he or she knows is a child, and knowingly fails to report the sexual abuse to law enforcement.

(c) This Section does not apply to a person who makes timely and reasonable efforts to stop the sexual abuse by reporting the sexual abuse in conformance with the Abused and Neglected Child Reporting Act or by reporting the sexual abuse or causing a report to be made, to medical or law enforcement authorities or anyone who is a mandated reporter under Section 4 of the Abused and Neglected Child Reporting Act.

(d) A person may not be charged with the offense of failure to report sexual abuse of a child under this Section until the person who committed the offense is charged with criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse.

(e) It is an affirmative defense to a charge of failure to report sexual abuse of a child under this Section that the person who personally observed the sexual abuse had a reasonable apprehension that timely action to stop the abuse would result in the imminent infliction of death, great bodily harm, permanent disfigurement, or permanent disability to that person or another in retaliation for reporting.

(f) Sentence. A person who commits failure to report sexual abuse of a child is guilty of a Class A misdemeanor for the first violation and a Class 4 felony for a second or
subsequent violation.

(g) Nothing in this Section shall be construed to allow prosecution of a person who personally observes the act of sexual abuse and assists with an investigation and any subsequent prosecution of the offender.

§ 720 5/11-20.2. Duty of commercial film and photographic print processors or computer technicians to report sexual depiction of children.

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

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or
(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child and the sex organs of another person or animal; or
(iii) actually or by simulation engaged in any act of masturbation; or
(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; or
(v) actually or by simulation engaged in any act of excretion or urination within a sexual context; or
(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or
(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the child or other person;

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

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

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

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

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

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

(g) For the purposes of this Section, a “computer technician” is a person who installs, maintains, troubleshoots, repairs or upgrades computer hardware, software, computer networks, peripheral equipment, electronic mail systems, or provides user assistance for any of the aforementioned tasks.
§ 31-33-5-1. Duty to make report.
*Ind. Code Ann.* § 31-33-5-1

In addition to any other duty to report arising under this article, an individual who has reason to believe that a child is a victim of child abuse or neglect shall make a report as required by this article.

§ 31-33-5-2. Notification of individual in charge of institution, school, facility or agency; report.
*Ind. Code Ann.* § 31-33-5-2

(a) This section does not apply to an individual required to make a report under this article in the individual's capacity as a member of the staff of a hospital licensed under [IC 16-21-2](https://statutes特蕾莎/indiana/code/title31/section33-5-2.5). An individual required to make a report under this article in the individual's capacity as a member of the staff of a hospital licensed under [IC 16-21-2](https://statutes特蕾莎/indiana/code/title31/section33-5-2.5) is subject to section 2.5 of this chapter.

(b) If an individual is required to make a report under this article in the individual's capacity as a member of the staff of a medical or other public or private institution, school, facility, or agency, the individual shall immediately make a report to:
   1. the department; or
   2. the local law enforcement agency.

After making the report, the individual shall notify the individual in charge of the institution, school, facility, or agency or the designated agent of the individual in charge of the institution, school, facility, or agency that the report was made.

§ 31-33-5-2.5. Notification of individual in charge of hospital; report.
*Ind. Code Ann.* § 31-33-5-2.5

(a) This section applies only to an individual required to make a report under this article in the individual's capacity as a member of the staff of a hospital licensed under [IC 16-21-2](https://statutes特蕾莎/indiana/code/title31/section33-5-2.5).

(b) If an individual is required to make a report under this article in the individual's capacity as a member of the staff of a hospital licensed under [IC 16-21-2](https://statutes特蕾莎/indiana/code/title31/section33-5-2.5), the individual shall immediately notify the individual in charge of the hospital or the designated agent of the individual in charge of the hospital.

(c) An individual notified under subsection (b) shall immediately report or cause a report to be made to:
   1. the department; or
   2. the local law enforcement agency.

§ 31-33-5-3. Effect of compliance on individual's own duty to report.
*Ind. Code Ann.* § 31-33-5-3

This chapter does not relieve an individual of the obligation to report on the individual's own behalf, unless a report has already been made to the best of the individual's belief.

§ 31-33-5-4. Immediate oral report to department or law enforcement agency.
*Ind. Code Ann.* § 31-33-5-4

A person who has a duty under this chapter to report that a child may be a victim of child abuse or neglect shall immediately make an oral or written report to:
§ 31-33-5-5. Prohibition on policy that restricts or delays an individual's duty to report.

Ind. Code Ann. § 31-33-5-5

(a) This section does not apply to a hospital licensed under IC 16-21-2.

(b) A medical institution or other public or private institution, public or nonpublic school, school corporation, facility, or agency may not establish any policy that restricts or delays the duty of an employee or individual to report under this chapter.

§ 31-33-6-1. Immunity from civil or criminal liability.

Ind. Code Ann. § 31-33-6-1

Except as provided in section 2 of this chapter, a person, other than a person accused of child abuse or neglect, who:

(1) makes or causes to be made a report of a child who may be a victim of child abuse or neglect;

(2) is a health care provider and detains a child for purposes of causing photographs, x-rays, or a physical medical examination to be made under IC 31-33-10;

(3) makes any other report of a child who may be a victim of child abuse and neglect; or

(4) participates in any judicial proceeding or other proceeding:

(A) resulting from a report that a child may be a victim of child abuse or neglect; or

(B) relating to the subject matter of the report;

is immune from any civil or criminal liability that might otherwise be imposed because of such actions.

§ 31-33-6-2. Exception for malice or bad faith.

Ind. Code Ann. § 31-33-6-2

Immunity does not attach for a person who has acted maliciously or in bad faith.

§ 31-33-6-3. Presumption of good faith.

Ind. Code Ann. § 31-33-6-3

A person making a report that a child may be a victim of child abuse or neglect or assisting in any requirement of this article is presumed to have acted in good faith.

§ 31-33-7-4. Written report; content.

Ind. Code Ann. § 31-33-7-4

(a) Except as provided in subsection (b), the department shall make a written report of a child who may be a victim of child abuse or neglect not later than forty-eight (48) hours after receipt of the oral or written report required of individuals by IC 31-33-5-4.

(b) The department shall make a written report of a child who is a missing child (as defined in IC 10-13-5-4) not later than twenty-four (24) hours after receipt of the oral or written report required of individuals by IC 31-33-5-4.

(c) Written reports under this section must be made on forms supplied by the administrator. The written reports must include, if known, the following information:

(1) The names and addresses of the following:
(A) The child.
(B) The child's parents, guardian, custodian, or other person responsible for the child's care.

(2) The child's age and sex.
(3) The nature and apparent extent of the child's injuries, abuse, or neglect, including any evidence of prior:
   (A) injuries of the child; or
   (B) abuse or neglect of the child or the child's siblings.
(4) The name of the person allegedly responsible for causing the injury, abuse, or neglect.
(5) The source of the report.
(6) The person making the report and where the person can be reached.
(7) The actions taken by the reporting source, including the following:
   (A) Taking of photographs and x-rays.
   (B) Removal or keeping of the child.
   (C) Notifying the coroner.

(8) The written documentation required by IC 31-34-2-3 if a child was taken into custody without a court order.
(9) If the report concerns a missing child, any information concerning the time and circumstances related to the child becoming a missing child, including the child's last known location.
(10) Any other information that:
   (A) the director requires by rule; or
   (B) the person making the report believes might be helpful.

§ 31-33-7-8. Reports after initiation of assessment or investigation; contents; confidentiality.
Ind. Code. Ann. § 31-33-7-8

(a) This section applies if the department receives a report of suspected child abuse or neglect from:
   (1) a hospital;
   (2) a community mental health center;
   (3) a managed care provider (as defined in IC 12-7-2-127(b));
   (4) a referring physician;
   (5) a dentist;
   (6) a licensed psychologist;
   (7) a school;
   (8) a child caring institution licensed under IC 31-27;
   (9) a group home licensed under IC 31-27 or IC 12-28-4;
   (10) a secure private facility; or
   (11) a child placing agency (as defined in IC 31-9-2-17.5).

(b) Not later than thirty (30) days after the date the department initiates an assessment or investigation of a report of suspected child abuse or neglect from a person described in subsection (a), the department shall send a report to:
   (1) the administrator of the hospital;
   (2) the community mental health center;
   (3) the managed care provider;
   (4) the referring physician;
   (5) the dentist;
   (6) the principal of the school;
   (7) a licensed psychologist;
   (8) a child caring institution licensed under IC 31-27;
   (9) a group home licensed under IC 31-27 or IC 12-28-4;
   (10) a secure private facility; or
   (11) a child placing agency (as defined in IC 31-9-2-17.5).

The report must contain the items listed in subsection (d) that are known at
the time the report is sent.

(c) The administrator, director, referring physician, dentist, licensed psychologist, or principal may appoint a designee to receive the report.

(d) A report made by the department under this section must contain the following information:

1. The name of the alleged victim of child abuse or neglect.
2. The name of the alleged perpetrator and the alleged perpetrator's relationship to the alleged victim.
3. Whether the assessment is closed.
4. Whether the department has made an assessment of the case and has not taken any further action.
5. The caseworker's name and telephone number.
6. The date the report is prepared.
7. Other information that the department may prescribe.

(e) A report made under this section:

1. is confidential; and
2. may be made available only to:
   (A) the agencies named in this section; and
   (B) the persons and agencies listed in IC 31-33-18-2.

§ 31-33-10-1. Duty to photograph, x-ray, and physically examine trauma visible on child.
Ind. Code Ann. § 31-33-10-1

(a) A person who:

1. is required to report cases of known or suspected child abuse or neglect; and
2. is also a health care provider or a person in charge of a hospital or similar medical institution treating the child;

shall cause photographs to be taken of the areas of trauma visible on the child who is the subject of a report.

(b) If medically indicated, a physician may cause a radiological examination or a physical medical examination, or both, of the child to be performed.

§ 31-33-10-2. Photographs, x-rays, and physical medical examinations; reimbursement of costs.
Ind. Code Ann. § 31-33-10-2

The department shall reimburse the reasonable cost of photographs, x-rays, or physical medical examinations made under this chapter.

§ 31-33-10-3. Photographs, x-rays, and physical medical examinations; delivery to department of child services; notice of existence.
Ind. Code Ann. § 31-33-10-3

All photographs taken and a summary of x-rays and other medical care shall be sent to the department and, upon request, to a law enforcement agency that investigates the alleged child abuse or neglect, at the time the written report is sent or as soon thereafter as possible. The department shall give notice of the existence of photographs, x-rays, and physical medical examination reports in accordance with IC 31-25-2-12.

§ 31-33-18-1. Confidentiality; exceptions.
Ind. Code Ann. § 51-33-18-1
(a) Except as provided in section 1.5 of this chapter, the following are confidential:
   (1) Reports made under this article (or IC 31-6-11 before its repeal).
   (2) Any other information obtained, reports written, or photographs taken
       concerning the reports in the possession of:
       (A) the division of family resources;
       (B) the local office;
       (C) the department; or
       (D) the department of child services ombudsman established by IC 4-13-19-3.

(b) Except as provided in section 1.5 of this chapter, all records held by:
   (1) the division of family resources;
   (2) a local office;
   (3) the department;
   (4) a local child fatality review team established under IC 16-49-2 ;
   (5) the statewide child fatality review committee established under IC 16-49-4 ; or
   (6) the department of child services ombudsman established by IC 4-13-19-3 ; regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed.

§ 31-33-18-2. Disclosure of unredacted material to certain persons.
Ind. Code ann. § 31-33-18-2

The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:
   (1) Persons authorized by this article.
   (2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.
   (3) Any of the following who are investigating a report of a child who may be a victim of child abuse or neglect:
       (A) A police officer or other law enforcement agency.
       (B) A prosecuting attorney.
       (C) A coroner, in the case of the death of a child.
   (4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.
   (5) An individual legally authorized to place a child in protective custody if:
       (A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and
       (B) the individual requires the information in the report or record to determine whether to place the child in protective custody.
   (6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.
   (7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.
   (8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.
   (9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of
a redacted record in accordance with section 1.5 of this chapter, access is limited to in-camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

(12) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(13) A person about whom a report has been made, with protection for the identity of:
   (A) any person reporting known or suspected child abuse or neglect; and
   (B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(14) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:
   (A) child at imminent risk of placement;
   (B) child in need of services; or
   (C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(15) A local child fatality review team established under IC 16-49-2.

(16) The statewide child fatality review committee established by IC 16-49-4.

(17) The department.

(18) The division of family resources, if the investigation report:
   (A) is classified as substantiated; and
   (B) concerns:
      (i) an applicant for a license to operate;
      (ii) a person licensed to operate;
      (iii) an employee of; or
      (iv) a volunteer providing services at;  
      a child care center licensed under IC 12-17-2-4 or a child care home licensed under IC 12-17-2-5.

(19) A citizen review panel established under IC 31-25-2-20.4.

(20) The department of child services ombudsman established by IC 4-13-19-3.

(21) The state superintendent of public instruction with protection for the identity of:
   (A) any person reporting known or suspected child abuse or neglect; and
   (B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(22) The state child fatality review coordinator employed by the state department of health under IC 16-49-5-1.

(23) A person who operates a child caring institution, group home, or secure private facility if all the following apply:
(A) The child caring institution, group home, or secure private facility is licensed under IC 31-27.
(B) The report or other materials concern:
      (i) an employee of;
      (ii) a volunteer providing services at; or
      (iii) a child placed at;
      the child caring institution, group home, or secure private facility.
(C) The allegation in the report occurred at the child caring institution, group home, or secure private facility.

(24) A person who operates a child placing agency if all the following apply:
(A) The child placing agency is licensed under IC 31-27.
(B) The report or other materials concern:
   (i) a child placed in a foster home licensed by the child placing agency;
   (ii) a person licensed by the child placing agency to operate a foster family home;
   (iii) an employee of the child placing agency or a foster family home licensed by the child placing agency;
   (iv) a volunteer providing services at the child placing agency or a foster family home licensed by the child placing agency.
(C) The allegations in the report occurred in the foster family home or in the course of employment or volunteering at the child placing agency or foster family home.
(26) A local domestic violence fatality review team established under IC 12-18-8, as determined by the department to be relevant to the death or near fatality that the local domestic violence fatality review team is reviewing.
(27) The statewide domestic violence fatality review committee established under IC 12-18-9-3, as determined by the department to be relevant to the death or near fatality that the statewide domestic violence fatality review committee is reviewing.

§ 31-33-18-5. Confidentiality of recordings of calls to child abuse hotline.
Ind. Code Ann. § 31-33-18-5

(a) An audio recording of a telephone call to the child abuse hotline is confidential and may be released only upon court order.
(b) An audio recording of a report of child abuse or neglect that is the subject of a complaint made to a prosecuting attorney under IC 31-33-22-3 shall be released without a court order to the prosecuting attorney upon written request of the prosecuting attorney.

§ 31-33-22-1. Failure to make report.
Ind. Code Ann. § 31-33-22-1

(a) A person who knowingly fails to make a report required by IC 31-33-5-1 commits a Class B misdemeanor.
(b) A person who knowingly fails to make a report required by IC 31-33-5-2 or IC 31-33-5-2.5 commits a Class B misdemeanor. This penalty is in addition to the penalty imposed by subsection (a).

§ 31-33-22-2. Obtaining child abuse information under false pretenses; knowingly falsifying records or interfering with an investigation.
Ind. Code Ann. § 31-33-22-2

(a) An individual who knowingly requests, obtains, or seeks to obtain child abuse or neglect information under false pretenses commits a Class B misdemeanor.
(b) A person who knowingly or intentionally:
   (1) falsifies child abuse or neglect information or records; or
   (2) obstructs or interferes with a child abuse assessment, including an assessment conducted by a local child fatality review team or the statewide child fatality review committee;

   commits obstruction of a child abuse assessment, a Class A misdemeanor.
§ 31-33-22-3. False reports; criminal and civil liability; notification of prosecuting attorney.  
Ind. Code Ann. § 31-33-22-3

(a) A person who intentionally communicates to:
   (1) a law enforcement agency; or
   (2) the department;
   a report of child abuse or neglect knowing the report to be false commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a previous unrelated conviction for making a report of child abuse or neglect knowing the report to be false.

(b) A person who intentionally communicates to:
   (1) a law enforcement agency; or
   (2) the department;
   a report of child abuse or neglect knowing the report to be false is liable to the person accused of child abuse or neglect for actual damages. The finder of fact may award punitive damages and attorney's fees in an amount determined by the finder of fact against the person.

(c) The director or the director's designee shall, after review by the department's attorney, notify the prosecuting attorney whenever the director or the director's designee and the department's attorney have reason to believe that a person has violated this section.

(d) A person who:
   (1) has reason to believe that the person is a victim of a false report of child abuse or neglect under this section; and
   (2) is not named in a pending criminal charge or under assessment relating to the report;
   may file a complaint with the prosecuting attorney. The prosecuting attorney shall review the relevant child abuse or neglect records of the department and any other relevant evidence.

§ 31-33-22-5. Access by accused to false report.  
Ind. Code Ann. § 31-33-22-5

A person who is accused of committing child abuse or neglect is entitled to access to a report relevant to an alleged false accusation filed under this article if a court finds that the report:
   (1) is unsubstantiated; and
   (2) was intentionally communicated to a law enforcement agency or the department by a person who knew the report was false.

§ 31-32-11-1. Admissibility of privileged communications.  
Ind. Code Ann. § 31-32-11-1

The privileged communication between:
   (1) a husband and wife;
   (2) a health care provider and the health care provider's patient;
   (3) a:
      (A) licensed social worker;
      (B) licensed clinical social worker;
      (C) licensed marriage and family therapist;
      (D) licensed mental health counselor;
      (E) licensed addiction counselor; or
      (F) licensed clinical addiction counselor;
      and a client of any of the professionals described in clauses (A) through (F);
   (4) a school counselor and a student; or
   (5) a school psychologist and a student;
is not a ground for excluding evidence in any judicial proceeding resulting from a report of a child who may be a victim of child abuse or neglect or relating to the subject matter of the report or failing to report as required by IC 31-33.


*Ind. Code Ann. § 20-19-3-11*

(a) The department, in collaboration with the department of child services and organizations that have expertise in child abuse, including child sexual abuse, shall identify or develop:

(1) research and evidence based model educational materials on child abuse and child sexual abuse; and

(2) a model for child abuse and child sexual abuse response policies and reporting procedures.

To identify or develop models under this subsection, the department may not hire additional staff members or expend funds not already included in the department's budget.

(b) Not later than July 1, 2013, the department shall make the models developed or identified under this section available to assist schools with the implementation of:

(1) child abuse and child sexual abuse education programs in grade 2 through grade 5; and

(2) child abuse and child sexual abuse response and reporting policies.

(c) The model educational materials on child abuse and child sexual abuse identified or developed under subsection (a) may include the following topics:

(1) Warning signs of a child who is being abused or sexually abused.

(2) The basic principles of child abuse and child sexual abuse prevention.

(3) Methods of student, teacher, and parental education and outreach.

(d) The model child abuse and child sexual abuse response and reporting policies referred to in subsection (b) may include the following topics:

(1) Actions that a child who is a victim of abuse or sexual abuse may take to obtain assistance.

(2) Interventions.

(3) Counseling options.

(4) Educational support available for a child who is a victim of abuse or sexual abuse to enable the child to continue to be successful in school.

(5) Reporting procedures.

(e) A school that chooses to use the model educational materials developed under subsection (a) shall inform the parents of students in the grade levels in which the materials could be used, in writing and by posting on the school’s Internet web site, that a parent may:

(1) examine and review the model educational materials before the materials are taught; and

(2) decide if the parent’s child will be instructed with the model educational materials.

(f) If a parent decides that the parent’s child may be taught using the model educational materials, the parent shall notify the school of the parent’s decision in writing or electronically.
§ 232.69. Mandatory and permissive reporters--training required.
Iowa Code Ann. § 232.69

1. The classes of persons enumerated in this subsection shall make a report within twenty-four hours and as provided in section 232.70, of cases of child abuse. In addition, the classes of persons enumerated in this subsection shall make a report of abuse of a child who is under twelve years of age and may make a report of abuse of a child who is twelve years of age or older, which would be defined as child abuse under section 232.68, subsection 2, paragraph “a”, subparagraph (3) or (5), except that the abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child.

   a. Every health practitioner who in the scope of professional practice, examines, attends, or treats a child and who reasonably believes the child has been abused. Notwithstanding section 139A.30, this provision applies to a health practitioner who receives information concerning that a child is infected with a sexually transmitted disease.

   b. Any of the following persons who, in the scope of professional practice or in their employment responsibilities, examines, attends, counsels, or treats a child and reasonably believes a child has suffered abuse:

      (1) A social worker.
      (2) An employee or operator of a public or private health care facility as defined in section 135C.1.
      (3) A certified psychologist.
      (4) A licensed school employee, certified para-educator, holder of a coaching authorization issued under section 272.31, or an instructor employed by a community college.
      (5) An employee or operator of a licensed child care center, registered child development home, head start program, family development and self-sufficiency grant program under section 216A.107, or healthy opportunities for parents to experience success – healthy families Iowa program under section 135.106.
      (6) An employee or operator of a substance abuse program or facility licensed under chapter 125.
      (7) An employee of a department of human services institution listed in section 218.1.
      (8) An employee or operator of a juvenile detention or juvenile shelter care facility approved under section 232.142.237.
      (9) An employee or operator of a foster care facility licensed or approved under chapter 237.
      (10) An employee or operator of a mental health center.
      (11) A peace officer.
      (12) A counselor or mental health professional.
      (13) An employee or operator of a provider of services to children funded under a federally approved medical assistance home and community-based services waiver.

2. Any other person who believes that a child has been abused may make a report as provided in section 232.70.

3.

   a. For the purposes of this subsection, “licensing board” means a board designated in section 147.13, the board of educational examiners created in section 272.2, or a licensing board as defined in section 272C.1.

   b. A person required to make a report under subsection 1, other than a physician whose professional practice does not regularly involve providing primary health care to children, shall complete two hours of training relating to the identification and reporting of child abuse within six months of initial employment or self-employment involving the examination, attending,
counseling, or treatment of children on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional child abuse identification and reporting training every five years.
c. If the person is an employee of a hospital or similar institution, or of a public or private institution, agency, or facility, the employer shall be responsible for providing the child abuse identification and reporting training. If the person is self-employed, employed in a licensed or certified profession, or employed by a facility or program that is subject to licensure, regulation, or approval by a state agency, the person shall obtain the child abuse identification and reporting training as provided in paragraph “d”.
d. The person may complete the initial or additional training requirements as part of any of the following that are applicable to the person:
   (1) A continuing education program required under chapter 272C and approved by the appropriate licensing board.
   (2) A training program using a curriculum approved by the director of public health pursuant to section 135.11.
   (3) A training program using such an approved curriculum offered by the department of human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, or a similar public agency.
e. A licensing board with authority over the license of a person required to make a report under subsection 1 shall require as a condition of licensure that the person is in compliance with the requirements for abuse training under this subsection. The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person's completion of the training requirements. However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person who is engaged in active duty in the military service of this state or of the United States, to a person for whom compliance with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is otherwise subject to circumstances that would preclude the person from encountering child abuse in this state.
f. For persons required to make a report under subsection 1 who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure, registration, or approval by a state agency, the agency shall require as a condition of renewal of the facility's or program's licensure, registration, or approval, that such persons employed by the facility or program are in compliance with the training requirements of this subsection.
g. For peace officers, the elected or appointed official designated as the head of the agency employing the peace officer shall ensure compliance with the training requirements of this subsection.
h. For persons required to make a report under subsection 1 who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the persons' compliance with the training requirements of this subsection.

§ 232.70. Reporting procedure.
Iowa Code Ann. § 232.70

1. Each report made by a mandatory reporter, as defined in section 232.69, subsection 1, shall be made both orally and in writing. Each report made by a
permissive reporter, as defined in section 232.69, subsection 2, may be oral, written, or both.

2. The employer or supervisor of a person who is a mandatory or permissive reporter shall not apply a policy, work rule, or other requirement that interferes with the person making a report of child abuse.

3. The oral report shall be made by telephone or otherwise to the department of human services. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency.

4. The written report shall be made to the department of human services within forty-eight hours after such oral report.

5. Upon receipt of a report the department shall do all of the following:
   a. Immediately, upon receipt of an oral report, make a determination as to whether the report constitutes an allegation of child abuse as defined in section 232.68.
   b. Notify the appropriate county attorney of the receipt of the report.

6. The oral and written reports shall contain the following information, or as much thereof as the person making the report is able to furnish:
   a. The names and home address of the child and the child's parents or other persons believed to be responsible for the child's care;
   b. The child's present whereabouts if not the same as the parent's or other person's home address;
   c. The child's age;
   d. The nature and extent of the child's injuries, including any evidence of previous injuries;
   e. The name, age and condition of other children in the same home;
   f. Any other information which the person making the report believes might be helpful in establishing the cause of the injury to the child, the identity of the person or persons responsible for the injury, or in providing assistance to the child; and
   g. The name and address of the person making the report.

7. A report made by a permissive reporter, as defined in section 232.69, subsection 2, shall be regarded as a report pursuant to this chapter whether or not the report contains all of the information required by this section and may be made to the department of human services, county attorney, or law enforcement agency. If the report is made to any agency other than the department of human services, such agency shall promptly refer the report to the department of human services.

8. If a report would be determined to constitute an allegation of child abuse as defined under section 232.68, subsection 2, paragraph "a", subparagraph (3) or (5), except that the suspected abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child, the department shall refer the report to the appropriate law enforcement agency having jurisdiction to investigate the allegation. The department shall refer the report orally as soon as practicable and in writing within seventy-two hours of receiving the report.

9. Within twenty-four hours of receiving a report from a mandatory or permissive reporter, the department shall inform the reporter, orally or by other appropriate means, whether or not the department has commenced an assessment of the allegation in the report.
10. If a report would be determined to constitute an allegation of child abuse as defined under section 232.68, subsection 2, paragraph “a”, subparagraph (3) or (5), except that the suspected abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child, the department shall refer the report to the appropriate law enforcement agency having jurisdiction to investigate the allegation. The department shall refer the report orally as soon as practicable and in writing within seventy-two hours of receiving the report.

11. If the department has reasonable cause to believe that a child under the placement, care, or supervision of the department is, or is at risk of becoming, a sex trafficking victim, the department shall do all of the following:
   a. Identify the child as a sex trafficking victim or at risk of becoming a sex trafficking victim and include documentation in the child's department records.
   b. Refer the child for appropriate services.
   c. Refer the child identified as a sex trafficking victim, within twenty-four hours, to the appropriate law enforcement agency having jurisdiction to investigate the allegation.

§ 232.71B. Duties of the department upon receipt of report.
Iowa Code Ann. § 232.71B

   a. If the department determines a report constitutes a child abuse allegation, the department shall promptly commence either a child abuse assessment within twenty-four hours of receiving the report or a family assessment within seventy-two hours of receiving the report.
      (1) Upon acceptance of a report of child abuse, the department shall commence a child abuse assessment when the report alleges child abuse as defined in section 232.68, subsection 2, paragraph “a”, subparagraphs (1) through (3) and subparagraphs (5) through (11), or which alleges child abuse as defined in section 232.68, subsection 2, paragraph “a”, subparagraph (4), that also alleges imminent danger, death, or injury to a child.
      (2) Upon acceptance of a report of child abuse, the department shall commence a family assessment when the report alleges child abuse as defined in section 232.68, subsection 2, paragraph “a”, subparagraph (4), but does not allege imminent danger, death, or injury to a child.
   b. The primary purpose of either the child abuse assessment or the family assessment shall be the protection of the child named in the report. The secondary purpose of either type of assessment shall be to engage the child's family in services to enhance family strengths and to address needs.

2. Notification of parents. The department, within five working days of commencing the assessment, shall provide written notification of the assessment to the child's parents. If a parent is alleged to have committed the child abuse, the notice shall inform the parents regarding the complaint or allegation made regarding the parent. The parents shall be informed in a manner that protects the confidentiality rights of an individual who reported the child abuse or provided information as part of the assessment process. However, if the department shows the court to the court's satisfaction that notification is likely to endanger the child or other persons, the court shall orally direct the department to withhold notification. Within one working day of issuing an oral directive, the court shall issue a written order restraining the notification. The department shall not reveal in the written notification to the parents or otherwise the identity of the reporter of child abuse to a subject of a child abuse report listed in section 235A.15, subsection 2, paragraph “a”.

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3. Involvement of law enforcement.
   a. The department shall apply protocols, developed with the local child protection assistance team established pursuant to section 915.35, to prioritize the actions taken in response to a child abuse assessment and shall work jointly with child protection assistance teams and law enforcement agencies in performing assessment and investigative processes for child abuse assessments in which a criminal act harming a child is alleged. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child.
   b. If a report is determined not to constitute a child abuse allegation or if the child abuse report is accepted but assessed under the family assessment, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.
   c. If the department has reasonable cause to believe that a child under the placement, care, or supervision of the department is, or is at risk of becoming, a sex trafficking victim, the department shall do all of the following:
      (1) Identify the child as a sex trafficking victim or at risk of becoming a sex trafficking victim and include documentation in the child's department records.
      (2) Refer the child for appropriate services.
      (3) Refer the child identified as a sex trafficking victim, within twenty-four hours, to the appropriate law enforcement agency having jurisdiction to investigate the allegation.
   d. The department shall report a child under the placement, care, or supervision of the department who is reported as missing or abducted to law enforcement and to the national center for missing and exploited children within twenty-four hours of receipt of the report.

4. Assessment process.
   a. A child abuse assessment or family assessment shall include all of the following:
      (1) A safety assessment and risk assessment. If at any time during a family assessment, a child is determined unsafe or in imminent danger, it appears that the immediate safety or well-being of a child is endangered, it appears that the family may flee or the child may disappear, or the facts otherwise warrant, the department shall immediately commence a child abuse assessment.
      (2) An evaluation of the home environment. If concerns regarding protection of children are identified by the child protection worker, the child protection worker shall evaluate the child named in the report and any other children in the same home as the parents or other persons responsible for their care.
   b. In addition to the requirements of paragraph “a”, a child abuse assessment shall include the following:
      (1) Identification of the nature, extent, and cause of the injuries, if any, to the child named in the report.
      (2) Identification of the person or persons responsible for the alleged child abuse.
      (3) A description of the name, age, and condition of other children in the same home as the child named in the report.
      (4) An interview of the person alleged to have committed the child abuse, if the person's identity and location are known. The offer of an interview shall be made to the person prior to any consideration or determination being made that the person committed the alleged abuse. The person shall be informed of the complaint or allegation made regarding the person. The person shall be informed
in a manner that protects the confidentiality rights of the individual who reported the child abuse or provided information as part of the assessment process. The purpose of the interview shall be to provide the person with the opportunity to explain or rebut the allegations of the child abuse report or other allegations made during the assessment. The court may waive the requirement to offer the interview only for good cause. The person offered an interview, or the person's attorney on the person's behalf, may decline the offer of an interview of the person.

5. **Child abuse determination.** Unless otherwise prohibited under section 234.40 or 280.21, the use of corporal punishment by the person responsible for the care of a child which does not result in a physical injury to the child shall not be considered child abuse.

6. **Home visit.** The assessment may, with the consent of the parent or guardian, include a visit to the home of the child named in the report and an interview or observation of the child may be conducted. If permission to enter the home to interview or observe the child is refused, the juvenile court or district court upon a showing of probable cause may authorize the person making the assessment to enter the home and interview or observe the child.

7. **Facility or school visit.** The assessment may include a visit to a facility providing care to the child named in the report or to any public or private school subject to the authority of the department of education where the child named in the report is located. The administrator of a facility, or a public or private school shall cooperate with the child protection worker by providing confidential access to the child named in the report for the purpose of interviewing the child, and shall allow the child protection worker confidential access to other children for the purpose of conducting interviews in order to obtain relevant information. The child protection worker may observe a child named in a report in accordance with the provisions of section 232.68, subsection 3, paragraph “b”. A witness shall be present during an observation of a child. Any child aged ten years of age or older can terminate contact with the child protection worker by stating or indicating the child's wish to discontinue the contact. The immunity granted by section 232.73 applies to acts or omissions in good faith of administrators and their facilities or school districts for cooperating in an assessment and allowing confidential access to a child.

8. **Information requests.**
   a. The department may request information from any person believed to have knowledge of a child abuse case. The county attorney, any law enforcement or social services agency in the state, and any mandatory reporter, whether or not the reporter made the specific child abuse report, shall cooperate and assist in the assessment upon the request of the department.
   b. In performing an assessment, the department may request criminal history data from the department of public safety on any person believed to be responsible for an injury to a child which, if confirmed, would constitute child abuse. The department shall establish procedures for determining when a criminal history records check is necessary.

9. **Protective disclosure.** If the department determines that disclosure is necessary for the protection of a child, the department may disclose to a subject of a child abuse report referred to in section 235A.15, subsection 2, paragraph “a”, that an individual is listed in the child or dependent adult abuse registry or is required to register with the sex offender registry in accordance with chapter 692A.

10. **Physical examination.** If the department refers a child to a physician for a physical examination, the department shall contact the physician regarding the examination within twenty-four hours of making the referral. If the physician who performs the examination upon referral by the department reasonably believes the child has been abused, the physician shall report to the department within twenty-four hours of performing the
11. **Multidisciplinary team.** In each county or multicounty area in which more than fifty child abuse reports are made per year, the department shall establish a multidisciplinary team, as defined in section 235A.13, subsection 8. Upon the department's request, a multidisciplinary team shall assist the department in the assessment, diagnosis, and disposition of a child abuse assessment.

12. **Facility protocol.**
   a. The department shall apply a protocol, developed in consultation with facilities providing care to children, for conducting an assessment of reports of abuse of children allegedly caused by employees of facilities providing care to children. As part of such an assessment, the department shall notify the licensing authority for the facility, the governing body of the facility, and the administrator in charge of the facility of any of the following:
      (1) A violation of facility policy noted in the assessment.
      (2) An instance in which facility policy or lack of facility policy may have contributed to the reported incident of alleged child abuse.
      (3) An instance in which general practice in the facility appears to differ from the facility's written policy.
   b. The licensing authority, the governing body, and the administrator in charge of the facility shall take any lawful action which may be necessary or advisable to protect children receiving care.

13. **Written assessment report.**
   a. The department, upon completion of the child abuse assessment or the family assessment, shall make a written report of the assessment, in accordance with all of the following:
      (1) The written assessment report shall incorporate the information required by subsection 4, paragraph “a”.
      (2) A written child abuse assessment report shall be completed within twenty business days of the receipt of the child abuse report. A written family assessment report shall be completed within ten business days of the receipt of the child abuse report.
      (3) The written assessment report shall identify the strengths and needs of the child, and of the child's parent, home, and family.
      (4) The written assessment report shall identify services available from the department and informal and formal services and other support available in the community to address the strengths and needs identified in the assessment.
      (5) Upon completion of the assessment, the department shall consult with the child's family in offering services to the child and the child's family to address strengths and needs identified in the assessment.
   b. In addition to the requirements of paragraph “a”, a written child abuse assessment report shall include a description of the child’s condition, identification of the injury or risk to which the child was exposed, the circumstances which led to the injury or risk to the child, and the identity of any person alleged to be responsible for the injury or risk to the child.
   c. Following a child abuse assessment, the department shall notify each subject of the child abuse report, as identified in section 235A.15, subsection 2, paragraph “a”, of the results of the child abuse assessment, of the subject's right, pursuant to section 235A.19, to correct the report data or disposition data which refers to the subject, and of the procedures to correct the data.
   d. Following a family assessment, the department shall notify the parent or guardian of each child listed in the report of suspected child abuse of the completion of the family assessment and any service recommendations. For cases assessed pursuant to a family assessment, there shall be no right to a
contested case hearing pursuant to chapter 17A.
e. If after completing the assessment the child protection worker
determines, with the concurrence of the worker's supervisor and the
department's area administrator, that a report of suspected child abuse
is a spurious report or that protective concerns are not present, the
portions of the written assessment report described under paragraph “a”,
subparagraphs (3) and (4) shall not be required.

14. Court-ordered and voluntary services. The department shall provide or arrange
for and monitor services for abused children and their families on a voluntary basis
or under a final or intermediate order of the juvenile court. The department may
provide or arrange for and monitor services for children and their families on a
voluntary basis for cases in which a family assessment is completed.

15. Safety issue. If the department determines that a safety issue continues to require
a child to reside outside of the child's home at the conclusion of a family assessment,
the department shall transfer the assessment to the child abuse assessment pathway
for a disposition.

16. Conclusion of family assessment. At the conclusion of a family assessment, the
department shall transfer the case, if appropriate, to a contracted provider to review
the service plan for the child and family. The contracted provider shall make a
referral to the department abuse hotline if a family's noncompliance with a service
plan places a child at risk. If any of the criteria for child abuse as defined in section
232.68, subsection 2, paragraph “a”, are met, the department shall commence a child
abuse assessment. If any of the criteria for a child in need of assistance, as defined
in section 232.2, subsection 6, are met, the department shall determine whether to
request a child in need of assistance petition.

17. County attorney — juvenile court. The department shall provide the juvenile court
and the county attorney with a copy of the written child abuse assessment report, the
written family assessment report for cases in which the department requests a child
in need of assistance petition, or other reports for cases in which the department
requests a child in need of assistance petition. The juvenile court and the county
attorney shall notify the department of any action taken concerning an assessment
provided by the department.

18. False reports. If a fourth report is received from the same person who made
three earlier reports which identified the same child as a victim of child abuse and
the same person responsible for the care of the child as the alleged abuser and
which were determined by the department to be entirely false or without merit,
the department may determine that the report is again false or without merit due
to the report's spurious or frivolous nature and may in its discretion terminate its
assessment of the report. If the department receives more than three reports which
identify the same child as a victim of child abuse or the same person as the alleged
abuser of a child, or which were made by the same person, and the department
determined the reports to be entirely false or without merit, the department shall
provide information concerning the reports to the county attorney for consideration
of criminal charges under section 232.75, subsection 3.

19. Rules. The department shall adopt rules regarding the intake process, assessment
process, assessment reports, contact with juvenile court or the county attorney,
involvement with law enforcement, case record retention, and dissemination of
records for both child abuse assessments and family assessments.

20. Quality assurance. The department shall engage external stakeholders, including
but not limited to representatives of the county attorneys' offices, service providers,
and parent partners to develop a quality assurance component to the differential
response system.

§ 232.73. Medically relevant tests - immunity from liability.
Iowa Code Ann. § 232.73

1. A person participating in good faith in the making of a report, photographs, or X rays, or in the performance of a medically relevant test pursuant to this chapter, or aiding and assisting in an assessment of a child abuse report pursuant to section 232.71B, shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed. The person shall have the same immunity with respect to participation in good faith in any judicial proceeding resulting from the report or relating to the subject matter of the report.

2. As used in this section and in sections 232.73A, 232.77, and 232.78, “medically relevant test” means a test that produces reliable results of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives of the illegal drugs, including a drug urine screen test.

§ 232.73A. Retaliation prohibited – remedy.
Iowa Code Ann. § 232.73A

1. 
   a. An employer shall not take retaliatory action against an employee as a reprisal for the employee's participation in good faith in making a report, photograph, or X ray, or in the performance of a medically relevant test pursuant to this chapter, or aiding and assisting in an assessment of a child abuse report pursuant to section 232.71B. This section does not apply to a disclosure of information that is prohibited by statute.
   b. For purposes of this section, “retaliatory action” includes but is not limited to an employer's action to discharge an employee or to take or fail to take action regarding an employee's appointment or proposed appointment to a position in employment, to take or fail to take action regarding an employee's promotion or proposed promotion to a position in employment, or to fail to provide an advantage in a position in employment.

2. Subsection 1 may be enforced through a civil action.
   a. A person who violates subsection 1 is liable to an aggrieved employee for affirmative relief including reinstatement, with or without back pay, or any other equitable relief the court deems appropriate, including attorney fees and costs.
   b. When a person commits, is committing, or proposes to commit an act in violation of subsection 1, an injunction may be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee or the county attorney.

§ 232.74. Evidence not privileged or excluded.
Iowa Code Ann. § 232.74

Sections 622.9 and 622.10 and any other statute or rule of evidence which excludes or makes privileged the testimony of a husband or wife against the other or the testimony of a health practitioner or mental health professional as to confidential communications, do not apply to evidence regarding a child's injuries or the cause of the injuries in any judicial proceeding, civil or criminal, resulting from a report pursuant to this chapter or relating to the subject matter of such a report.
§ 232.75. Sanctions.
Iowa Code Ann. § 232.75

1. Any person, official, agency, or institution required by this chapter to report a suspected case of child abuse who knowingly and willfully fails to do so is guilty of a simple misdemeanor.

2. Any person, official, agency, or institution required by section 232.69 to report a suspected case of child abuse who knowingly fails to do so or who knowingly interferes with the making of such a report in violation of section 232.70 is civilly liable for the damages proximately caused by such failure or interference.

3. A person who reports or causes to be reported to the department of human services false information regarding an alleged act of child abuse, knowing that the information is false or that the act did not occur, commits a simple misdemeanor.

§ 232.76. Publicity, educational, and training programs.
Iowa Code Ann. § 232.75

1. The department, within the limits of available funds, shall conduct a continuing publicity and educational program for the personnel of the department, persons required to report, and any other appropriate persons to encourage the fullest possible degree of reporting of suspected cases of child abuse. Educational programs shall include but not be limited to the diagnosis and cause of child abuse, the responsibilities, obligations, duties, and powers of persons and agencies under this chapter and the procedures of the department and the juvenile court with respect to suspected cases of child abuse and disposition of actual cases.

2.

a. For the purposes of this subsection, in addition to the definition in section 232.68, a "child protection worker" also includes any employee of the department who provides services to or otherwise works directly with children and families for whom child abuse has been alleged.

b. The training of a child protection worker shall include but is not limited to the worker’s legal duties to protect the constitutional and statutory rights of a child and the child’s family members throughout the child or family members’ period of involvement with the department beginning with the child abuse report and ending with the department's closure of the case. The curriculum used for the training shall specifically include instruction on the fourth amendment to the Constitution of the United States and parents’ legal rights.

§ 232.77. Photographs, X rays, and medically relevant tests.
Iowa Code Ann. § 232.77

1. A person who is required to report suspected child abuse may take or cause to be taken, at public expense, photographs, X rays, or other physical examinations or tests of a child which would provide medical indication of allegations arising from an assessment. A health practitioner may, if medically indicated, cause to be performed radiological examination, physical examination, or other medical tests of the child. A person who takes any photographs or X rays or performs physical examinations or other tests pursuant to this section shall notify the department that the photographs or X rays have been taken or the examinations or other tests have been performed. The person who made notification shall retain the photographs or X rays or examination or test findings for a reasonable time following the notification. Whenever the person is required to report under section 232.69, in that person's capacity as a member of the staff of a medical or other private or public institution, agency or facility, that person shall immediately notify the person in charge of the
institutions, agencies, or facilities or that person's designated delegate of the need for photographs or X-rays or examinations or other tests.

2.  
   a. If a health practitioner discovers in a child physical or behavioral symptoms of the effects of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, which were not prescribed by a health practitioner, or if the health practitioner has determined through examination of the natural mother of the child that the child was exposed in utero, the health practitioner may perform or cause to be performed a medically relevant test, as defined in section 232.73, on the child. The practitioner shall report any positive results of such a test on the child to the department. The department shall begin an assessment pursuant to section 232.71B upon receipt of such a report. A positive test result obtained prior to the birth of a child shall not be used for the criminal prosecution of a parent for acts and omissions resulting in intrauterine exposure of the child to an illegal drug.
   b. If a health practitioner involved in the delivery or care of a newborn or infant discovers in the newborn or infant physical or behavioral symptoms that are consistent with the effects of prenatal drug exposure or a fetal alcohol spectrum disorder, the health practitioner shall report such information to the department in a manner prescribed by rule of the department.

§ 728.14. Commercial film and photographic print processor reports of depictions of minors engaged in prohibited sexual acts
Iowa Code Ann. § 728.14

1. A commercial film and photographic print processor who has knowledge of or observes, within the scope of the processor's professional capacity or employment, a visual depiction of a minor whom the processor knows or reasonably should know to be under the age of eighteen, engaged in a prohibited sexual act or in the simulation of a prohibited sexual act, shall report the visual depiction to the county attorney immediately or as soon as possible as required in this section. The processor shall not report to the county attorney visual depictions involving mere nudity of the minor, but shall report visual depictions involving a prohibited sexual act. This section shall not be construed to require a processor to review all visual depictions delivered to the processor within the processor's professional capacity or employment.

2. For purposes of this section, “prohibited sexual act” means any of the following:
   a. A sex act as defined in section 702.17.
   b. An act of bestiality involving a minor.
   c. Fondling or touching the pubes or genitals of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the act.
   d. Fondling or touching the pubes or genitals of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the act.
   e. Sadomasochistic abuse of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.
   f. Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.
   g. Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the nude minor.

3. A person who violates this section is guilty of a simple misdemeanor.
§ 915.35. Child victim services

Iowa Code Ann. § 915.35

1. As used in this section, "victim" means a minor under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709, 710A, or 726 or who has been the subject of a forcible felony.

2. A professional licensed or certified by the state to provide immediate or short-term medical services or mental health services to a victim may provide the services without the prior consent or knowledge of the victim's parents or guardians.

3. Such a professional shall notify the victim if the professional is required to report an incidence of child abuse involving the victim pursuant to section 232.69.

4. a. A child protection assistance team involving the county attorney, law enforcement personnel, and personnel of the department of human services shall be established for each county by the county attorney. However, by mutual agreement, two or more county attorneys may establish a single child protection assistance team to cover a multicounty area. A child protection assistance team, to the greatest extent possible, may be consulted in cases involving a forcible felony against a child who is less than age fourteen in which the suspected offender is the person responsible for the care of a child, as defined in section 232.68. A child protection assistance team may also be utilized in cases involving a violation of chapter 709 or 726 or other crime committed upon a victim as defined in subsection 1.

   b. A child protection assistance team may also consult with or include juvenile court officers, medical and mental health professionals, physicians or other hospital-based health professionals, court-appointed special advocates, guardians ad litem, and members of a multidisciplinary team created by the department of human services for child abuse investigations. A child protection assistance team may work cooperatively with the early childhood Iowa area board established under chapter 256I. The child protection assistance team shall work with the department of human services in accordance with section 232.71B, subsection 3, in developing the protocols for prioritizing the actions taken in response to child abuse assessments and for law enforcement agencies working jointly with the department at the local level in processes for child abuse assessments. The department of justice may provide training and other assistance to support the activities of a child protection assistance team.
§ 38-2209. Confidentiality of child in need of care records; penalties; immunities.

(a) Confidentiality requirements. In order to protect the privacy of children who are the subject of a child in need of care record or report, the records identified in this section shall be confidential and shall not be disclosed except as provided in K.S.A. 38-2210 through 38-2213, and amendments thereto. Confidential records that are disclosed pursuant to K.S.A. 38-2210 through 38-2213, and amendments thereto, shall not be further disclosed except to persons or entities authorized to receive them as provided in those sections, or by being presented as admissible evidence.

(1) Court records. Court records include both the official file and the social file.

(A) Official file. The official file of proceedings pursuant to this code shall consist of the pleadings, process, service of process, orders, writs and journal entries reflecting hearings held and judgments and decrees entered by the court. The official file shall be kept separate from other records of the court.

(B) Social file. The social file of proceedings pursuant to this code shall consist of reports and information received by the court, other than the official file. The social file shall be kept separate from other records of the court.

(2) Agency records. Agency records shall consist of all records and reports in the possession or control of the secretary or any agent of the secretary or of a juvenile intake and assessment agency concerning children alleged or adjudicated to be in need of care.

(3) Law enforcement records. Law enforcement records shall consist of all records and reports in the possession of a law enforcement agency concerning children alleged or adjudicated to be in need of care and shall, to the extent practical, be kept separate from other records held by a law enforcement agency.

(b) Penalties for improper disclosure of confidential records. No individual, association, partnership, corporation or other entity shall willfully or knowingly disclose, permit or encourage disclosure of the contents of records or reports in violation of the confidentiality requirements of this section. The court in a child in need of care proceeding may impose a civil penalty of up to $1,000 on any person or entity that violates this section. Violation of this section is a class A nonperson misdemeanor.

(c) Immunity. The following immunities shall apply to the disclosure of confidential information:

(1) Anyone who participates in providing or receiving information without malice under the provisions of K.S.A. 38-2210 through 38-2213, and amendments thereto, shall have immunity from any civil liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceedings resulting from providing or receiving information.

(2) The sharing of any information pursuant to this code by any person licensed or registered by the behavioral science regulatory board shall not be subject to review under any rules or regulations adopted by the behavioral sciences regulatory board.

(d) Risk of harm to child or others. Access to or disclosure of information pursuant to K.S.A. 38-2210 through 38-2213, and amendments thereto, is not required if the person or entity in possession of a record or report has reason to believe the person requesting such information may harm a child or other person as a result of such access or disclosure. The court may enter an order compelling or prohibiting access
to, or disclosure of information.

§ 38-2212. Appropriate and necessary access; exchange of information; court ordered disclosure; limited public information.

(a) Principle of appropriate access. Information contained in confidential agency records concerning a child alleged or adjudicated to be in need of care may be disclosed as provided in this section. Disclosure shall in all cases be guided by the principle of providing access only to persons or entities with a need for information that is directly related to achieving the purposes of this code.

(b) Free exchange of information. Pursuant to K.S.A. 2015 Supp. 38-2210, and amendments thereto, the secretary and juvenile intake and assessment agencies shall participate in the free exchange of information concerning a child who is alleged or adjudicated to be in need of care.

(c) Necessary access. The following persons or entities shall have access to information from agency records. Access shall be limited to information reasonably necessary to carry out their lawful responsibilities, to maintain their personal safety and the personal safety of individuals in their care, or to educate, diagnose, treat, care for or protect a child alleged to be in need of care. Information authorized to be disclosed pursuant to this subsection shall not contain information which identifies a reporter of a child who is alleged or adjudicated to be a child in need of care.

(1) A child named in the report or records, a guardian ad litem appointed for the child and the child's attorney.

(2) A parent or other person responsible for the welfare of a child, or such person's legal representative.

(3) A court-appointed special advocate for a child, a citizen review board or other advocate which reports to the court.

(4) A person licensed to practice the healing arts or mental health profession in order to diagnose, care for, treat or supervise: (A) A child whom such service provider reasonably suspects may be in need of care; (B) a member of the child's family; or (C) a person who allegedly abused or neglected the child.

(5) A person or entity licensed or registered by the secretary of health and environment or approved by the secretary of social and rehabilitation services to care for, treat or supervise a child in need of care.

(6) A coroner or medical examiner when such person is determining the cause of death of a child.

(7) The state child death review board established under K.S.A. 22a-243, and amendments thereto.

(8) An attorney for a private party who files a petition pursuant to subsection (b) of K.S.A. 2015 Supp. 38-2233, and amendments thereto.

(9) A foster parent, prospective foster parent, permanent custodian, prospective permanent custodian, adoptive parent or prospective adoptive parent. In order to assist such persons in making an informed decision regarding acceptance of a particular child, to help the family anticipate problems which may occur during the child's placement, and to help the family meet the needs of the child in a constructive manner, the secretary shall seek and shall provide the following information to such person's as the information becomes available to the secretary:

(A) Strengths, needs and general behavior of the child;
(B) circumstances which necessitated placement;
(C) information about the child's family and the child's relationship to the family which may affect the placement;
(D) important life experiences and relationships which may affect the child's feelings, behavior, attitudes or adjustment;
(E) medical history of the child, including third-party coverage which may be available to the child; and
(F) education history, to include present grade placement, special strengths and weaknesses.

(10) The state protection and advocacy agency as provided by subsection (a) (10) of K.S.A. 65-5603 or subsection (a)(2)(A) and (B) of K.S.A. 74-5515, and amendments thereto.

(11) Any educational institution to the extent necessary to enable the educational institution to provide the safest possible environment for its pupils and employees.

(12) Any educator to the extent necessary to enable the educator to protect the personal safety of the educator and the educator's pupils.

(13) Any other federal, state or local government executive branch entity or any agent of such entity, having a need for such information in order to carry out such entity's responsibilities under the law to protect children from abuse and neglect.

(d) Specified access. The following persons or entities shall have access to information contained in agency records as specified. Information authorized to be disclosed pursuant to this subsection shall not contain information which identifies a reporter of a child who is alleged or adjudicated to be a child in need of care.

(1) Information from confidential agency records of the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker of a child alleged or adjudicated to be in need of care shall be available to members of the standing house or senate committee on judiciary, house committee on corrections and juvenile justice, house committee on appropriations, senate committee on ways and means, legislative post audit committee and any joint committee with authority to consider children's and families' issues, when carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records and reports received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. The secretary of social and rehabilitation services shall not summarize the outcome of department actions regarding a child alleged to be a child in need of care in information available to members of such committees.

(2) The secretary of social and rehabilitation services may summarize the outcome of department actions regarding a child alleged to be a child in need of care to a person having made such report.

(3) Information from confidential reports or records of a child alleged or adjudicated to be a child in need of care may be disclosed to the public when:

(A) The individuals involved or their representatives have given express written consent; or
(B) the investigation of the abuse or neglect of the child or the filing of a petition alleging a child to be in need of care has become public knowledge, provided, however, that the agency shall limit disclosure to confirmation of procedural details relating to the handling of the case by professionals.

(e) Court order. Notwithstanding the provisions of this section, a court of competent jurisdiction, after in camera inspection, may order disclosure of confidential agency records pursuant to a determination that the disclosure is in the best interests of the child who is the subject of the reports or that the records are necessary for the proceedings of the court and otherwise admissible as evidence. The court shall specify the terms of disclosure and impose appropriate limitations.
(f) (1) Notwithstanding any other provision of law to the contrary, except as provided in paragraph (4), in the event that child abuse or neglect results in a child fatality or near fatality, reports or records of a child alleged or adjudicated to be in need of care received by the secretary, a law enforcement agency or any juvenile intake and assessment worker shall become a public record and subject to disclosure pursuant to K.S.A. 45-215, and amendments thereto.

(2) Within seven days of receipt of a request in accordance with the procedures adopted under K.S.A. 45-220, and amendments thereto, the secretary shall notify any affected individual that an open records request has been made concerning such records. The secretary or any affected individual may file a motion requesting the court to prevent disclosure of such record or report, or any select portion thereof. If the affected individual does not file such motion within seven days of notification, and the secretary has not filed a motion, the secretary shall release the reports or records. If such motion is filed, the court shall consider the effect such disclosure may have upon an ongoing criminal investigation, a pending prosecution, or the privacy of the child, if living, or the child's siblings, parents or guardians. The court shall make written findings on the record justifying the closing of the records and shall provide a copy of the journal entry to the affected parties and the individual requesting disclosure pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

(3) For reports or records requested pursuant to this subsection, the time limitations specified in this subsection shall control to the extent of any inconsistency between this subsection and K.S.A. 45-218, and amendments thereto. As used in this section, “near fatality” means an act that, as certified by a person licensed to practice medicine and surgery, places the child in serious or critical condition.

(4) Nothing in this subsection shall allow the disclosure of reports, records or documents concerning the child and such child's biological parents which were created prior to such child's adoption. Nothing herein is intended to require that an otherwise privileged communication lose its privileged character.

§ 38-2213. Records of law enforcement agencies; limited disclosure; exchange of information; access; court ordered disclosure.

(a) Principle of limited disclosure. Information contained in confidential law enforcement records concerning a child alleged or adjudicated to be in need of care may be disclosed as provided in this section. Disclosure shall in all cases be guided by the principle of providing access only to persons or entities with a need for information that is directly related to achieving the purposes of this code.

(b) Free exchange of information. Pursuant to K.S.A. 38-2210, and amendments thereto, a law enforcement agency shall participate in the free exchange of information concerning a child who is alleged or adjudicated to be in need of care.

(c) Access to information in law enforcement records. In order to discharge their official duties, the following persons or entities shall have access to confidential law enforcement records concerning a child alleged or adjudicated to be in need of care.

   1. The court having jurisdiction over the proceedings, including the presiding judge and any court personnel designated by the judge.
   2. The secretary.
   3. The commissioner of juvenile justice.
(4) Law enforcement officers or county or district attorneys or their staff.
(5) Any juvenile intake and assessment worker.
(6) Members of a court-appointed multidisciplinary team.
(7) Any other federal, state or local government executive branch entity, or any agent of such entity, having a need for such information in order to carry out such entity's responsibilities under law to protect children from abuse and neglect.
(8) Persons or entities allowed access pursuant to subsection (f) of K.S.A. 38-2212, and amendments thereto.

(d) Necessary access. The following persons or entities shall have access to information from law enforcement records when reasonably necessary to carry out their lawful responsibilities, to maintain their personal safety and the personal safety of individuals in their care, or to educate, diagnose, treat, care for or protect a child alleged or adjudicated to be in need of care. Information authorized to be disclosed in this subsection shall not contain information which identifies a reporter of a child alleged or adjudicated to be a child in need of care.

(1) Any individual, or public or private agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect, including physicians, psychiatrists, nurses, nurse practitioners, psychologists, licensed social workers, child development specialists, physician assistants, community mental health workers, alcohol and drug abuse counselors, and licensed or registered child care providers.
(2) School administrators shall have access to but shall not copy law enforcement records and may disclose information to teachers, paraprofessionals and other school personnel as necessary to meet the educational needs of the child or to protect the safety of students and school employees.
(3) The department of health and environment or persons authorized by the department of health and environment pursuant to K.S.A. 65-512, and amendments thereto, for the purposes of carrying out responsibilities relating to licensure or registration of child care providers as required by article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(e) Legislative access. Information from law enforcement records of a child alleged or adjudicated to be in need of care shall be available to members of the standing house or senate committee on judiciary, house committee on corrections and juvenile justice, house committee on appropriations, senate committee on ways and means, legislative post audit committee and any joint committee with authority to consider children's and families' issues, when carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319 and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records and reports received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate.

(f) Court order. Notwithstanding the provisions of this section, a court of competent jurisdiction, after in camera inspection, may order disclosure of confidential law enforcement records pursuant to a determination that the disclosure is in the best interests of the child who is the subject of the reports or that the records are necessary for the proceedings of the court and otherwise admissible as evidence. The court shall specify the terms of disclosure and impose appropriate limitations.

§ 38-2222. Public information and educational program; reporting of suspected abuse or neglect.
The secretary shall conduct a continuing public information and educational program concerning the reporting of suspected abuse or neglect for local staff of the Kansas department for children and families, for persons required to report under this code and for other appropriate persons.

§ 38-2223. Reporting of certain abuse or neglect of children; persons reporting; reports, made to whom; penalties; immunity from liability.

(a) Persons making reports.

(1) When any of the following persons has reason to suspect that a child has been harmed as a result of physical, mental or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly as provided in subsections (b) and (c):

(A) The following persons providing medical care or treatment: Persons licensed to practice the healing arts, dentistry and optometry, persons engaged in postgraduate training programs approved by the state board of healing arts, licensed professional or practical nurses and chief administrative officers of medical care facilities;

(B) the following persons licensed by the state to provide mental health services: Licensed psychologists, licensed masters level psychologists, licensed clinical psychotherapists, licensed social workers, licensed marriage and family therapists, licensed clinical marriage and family therapists, licensed behavioral analysts, licensed assistant behavioral analysts, licensed professional counselors, licensed clinical professional counselors and registered alcohol and drug abuse counselors;

(C) teachers, school administrators or other employees of an educational institution which the child is attending and persons licensed by the secretary of health and environment to provide child care services or the employees of persons so licensed at the place where the child care services are being provided to the child;

(D) firefighters, emergency medical services personnel, law enforcement officers, juvenile intake and assessment workers, court services officers, community corrections officers, case managers appointed under K.S.A. 2015 Supp. 23-3508, and amendments thereto, and mediators appointed under K.S.A. 2015 Supp. 23-3502, and amendments thereto; and

(E) any person employed by or who works as a volunteer for any organization, whether for profit or not-for-profit, that provides social services to pregnant teenagers, including, but not limited to, counseling, adoption services and pregnancy education and maintenance.

(2) In addition to the reports required under subsection (a)(1), any person who has reason to suspect that a child may be a child in need of care may report the matter as provided in subsection (b) and (c).

(b) Form of report.

(1) The report may be made orally and shall be followed by a written report if requested. Every report shall contain, if known: The names and addresses of the child and the child's parents or other persons responsible for the child's care; the location of the child if not at the child's residence; the child's gender, race and age; the reasons why the reporter suspects the child may be a child in need of care; if abuse or neglect or sexual abuse is suspected, the nature and extent of the harm to the child, including any evidence of
previous harm; and any other information that the reporter believes might be helpful in establishing the cause of the harm and the identity of the persons responsible for the harm.

(2) When reporting a suspicion that a child may be in need of care, the reporter shall disclose protected health information freely and cooperate fully with the secretary and law enforcement throughout the investigation and any subsequent legal process.

(c) To whom made. Reports made pursuant to this section shall be made to the secretary, except as follows:

(1) When the Kansas department for children and families is not open for business, reports shall be made to the appropriate law enforcement agency. On the next day that the department is open for business, the law enforcement agency shall report to the department any report received and any investigation initiated pursuant to K.S.A. 2015 Supp. 38-2226, and amendments thereto. The reports may be made orally or, on request of the secretary, in writing.

(2) Reports of child abuse or neglect occurring in an institution operated by the Kansas department of corrections shall be made to the attorney general or the secretary of corrections. Reports of child abuse or neglect occurring in an institution operated by the Kansas department for aging and disability services shall be made to the appropriate law enforcement agency. All other reports of child abuse or neglect by persons employed by the Kansas department for aging and disability services or the Kansas department for children and families, or of children of persons employed by either department, shall be made to the appropriate law enforcement agency.

(d) Death of child. Any person who is required by this section to report a suspicion that a child is in need of care and who knows of information relating to the death of a child shall immediately notify the coroner as provided by K.S.A. 22a-242, and amendments thereto.

(e) Violations.

(1) Willful and knowing failure to make a report required by this section is a class B misdemeanor. It is not a defense that another mandatory reporter made a report.

(2) Intentionally preventing or interfering with the making of a report required by this section is a class B misdemeanor.

(3) Any person who willfully and knowingly makes a false report pursuant to this section or makes a report that such person knows lacks factual foundation is guilty of a class B misdemeanor.

(f) Immunity from liability. Anyone who, without malice, participates in the making of a report to the secretary or a law enforcement agency relating to a suspicion a child may be a child in need of care or who participates in any activity or investigation relating to the report or who participates in any judicial proceeding resulting from the report shall have immunity from any civil liability that might otherwise be incurred or imposed.

§ 38-2224. Same; employer prohibited from imposing sanctions on employee making report or cooperating in investigation; penalty.


(a) No employer shall terminate the employment of, prevent or impair the practice or occupation of, or impose any other sanction on, any employee because the employee made an oral or written report to, or cooperated with an investigation by, a law enforcement agency or the secretary relating to harm inflicted upon a child which was suspected by the employee of having resulted from the physical, mental or emotional
abuse or neglect or sexual abuse of the child.

(b) Violation of this section is a class B misdemeanor.

§ 38-2225. Same; reporting of certain abuse or neglect of children in institutions operated by the secretary; rules and regulations.

The secretary shall adopt rules and regulations governing the reporting of suspected child abuse or neglect that occurs in an institution operated by the secretary. Such rules and regulations shall specify those types of incidents which are required to be reported.


(a) In all proceedings under this code, the rules of evidence of the code of civil procedure shall apply, except that no evidence relating to the condition of a child shall be excluded solely on the ground that the matter is or may be the subject of a physician-patient privilege, psychologist-client privilege or social worker-client privilege.

(b) The judge presiding at all hearings under this code shall not consider or rely upon any report not properly admitted according to the rules of evidence, except as provided by K.S.A. 38-2219, and amendments thereto.

(c) In any proceeding in which a child less than 13 years of age is alleged to have been physically, mentally or emotionally abused or neglected or sexually abused, a recording of an oral statement of the child, or of any witness less than 13 years of age, made before the proceeding began, is admissible in evidence if:
   (1) The court determines that the time, content and circumstances of the statement provide sufficient indicia of reliability;
   (2) no attorney for any party or interested party is present when the statement is made;
   (3) the recording is both visual and aural and is recorded on film, videotape or by other electronic means;
   (4) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered;
   (5) the statement is not made in response to questioning calculated to lead the child to make a particular statement or is clearly shown to be the child's statement and not made solely as a result of a leading or suggestive question;
   (6) every voice on the recording is identified;
   (7) the person conducting the interview of the child in the recording is present at the proceeding and is available to testify or be cross-examined by any party or interested party; and
   (8) each party or interested party to the proceeding is afforded an opportunity to view the recording before it is offered into evidence.

(d) On motion of any party to a proceeding pursuant to the code in which a child less than 13 years of age is alleged to have been physically, mentally or emotionally abused or neglected or sexually abused, the court may order that the testimony of the child, or of any witness less than 13 years of age, be taken:
   (1) In a room other than the courtroom and be televised by closed-circuit equipment in the courtroom to be viewed by the court and the parties and interested parties to the proceeding; or
(2) outside the courtroom and be recorded for showing in the courtroom before the court and the parties and interested parties to the proceeding if:
   (A) The recording is both visual and aural and is recorded on film, videotape or by other electronic means;
   (B) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered;
   (C) every voice on the recording is identified; and
   (D) each party and interested party to the proceeding is afforded an opportunity to view the recording before it is shown in the courtroom.

(e) At the taking of testimony under subsection (d):
   (1) Only an attorney for each party, interested party, the guardian ad litem for the child or other person whose presence would contribute to the welfare and well-being of the child and persons necessary to operate the recording or closed-circuit equipment may be present in the room with the child during the child's testimony;
   (2) only the attorneys for the parties may question the child; and
   (3) the persons operating the recording or closed-circuit equipment shall be confined to an adjacent room or behind a screen or mirror that permits such person to see and hear the child during the child's testimony, but does not permit the child to see or hear such person.

(f) If the testimony of a child is taken as provided by subsection (d), the child shall not be compelled to testify in court during the proceeding.

(g)
   (1) Any objection to a recording under subsection (d)(2) that such proceeding is inadmissible must be made by written motion filed with the court at least seven days before the commencement of the adjudicatory hearing. An objection under this subsection shall specify the portion of the recording which is objectionable and the reasons for the objection. Failure to file an objection within the time provided by this subsection shall constitute waiver of the right to object to the admissibility of the recording unless the court, in its discretion, determines otherwise.
   (2) The provisions of this subsection shall not apply to any objection to admissibility for the reason that the recording has been materially altered.
§ 15.334. Mandatory training courses for law enforcement students and certified peace officers - Administrative regulations - Annual report.  

(1) The Kentucky Law Enforcement Council shall approve mandatory training subjects to be taught to all students attending a law enforcement basic training course that include but are not limited to:

(a) Abuse, neglect, and exploitation of the elderly and other crimes against the elderly, including the use of multidisciplinary teams in the investigation and prosecution of crimes against the elderly;
(b) The dynamics of domestic violence, pediatric abusive head trauma, as defined in KRS 620.020, child physical and sexual abuse, and rape; child development; the effects of abuse and crime on adult and child victims, including the impact of abuse and violence on child development; legal remedies for protection; lethality and risk issues; profiles of offenders and offender treatment; model protocols for addressing domestic violence, rape, pediatric abusive head trauma, as defined in KRS 620.020, and child abuse; available community resources and victim services; and reporting requirements. This training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with expertise in domestic violence, child abuse, and rape. Training in recognizing pediatric abusive head trauma may be designed in collaboration with organizations and agencies that specialize in the prevention and recognition of pediatric abusive head trauma approved by the secretary of the Cabinet for Health and Family Services;
(c) Human immunodeficiency virus infection and acquired immunodeficiency virus syndrome;
(d) Identification and investigation of, responding to, and reporting bias-related crime, victimization, or intimidation that is a result of or reasonably related to race, color, religion, sex, or national origin;
(e) The characteristics and dynamics of human trafficking, state and federal laws relating to human trafficking, the investigation of cases involving human trafficking, including but not limited to screening for human trafficking, and resources for assistance to the victims of human trafficking; and
(f) Beginning January 1, 2017, the council shall require that a law enforcement basic training course include at least eight (8) hours of training relevant to sexual assault.

(2)

(a) The council shall develop and approve mandatory professional development training courses to be presented to all certified peace officers. A mandatory professional development training course shall be first taken by a certified peace officer in the training year following its approval by the council and biennially thereafter. A certified peace officer shall be required to take these courses no more than two (2) times in eight (8) years.
(b) Beginning January 1, 2011, the council shall require that one and one-half (1.5) hours of professional development covering the recognition and prevention of pediatric abusive head trauma be included in the curriculum of all mandatory professional development training courses such that all officers shall receive this training at least once by December 31, 2013. The one and one-half (1.5) hours required under this section shall be included in the current number of required continuing education hours.
(c) Beginning January 1, 2017, the council shall establish a forty (40) hour sexual assault investigation training course. By January 1, 2019, agencies shall have one (1) or more officers trained in this curriculum, as follows:
   1. Agencies with five (5) or fewer officers shall have at least one (1) officer trained in sexual assault investigation;
   2. Agencies with more than five (5) officers but fewer than thirty (30)
officers shall have at least two (2) officers trained in sexual assault investigation; and
3. Agencies with thirty (30) or more officers shall have at least four (4) officers trained in sexual assault investigation.

(3) The Justice and Public Safety Cabinet shall provide training on the subjects of domestic violence and abuse and may do so utilizing currently available technology. All certified peace officers shall be required to complete this training at least once every two (2) years.

(4) The council shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish mandatory basic training and professional development training courses. (5) The council shall make an annual report by December 31 each year to the Legislative Research Commission that details the subjects and content of mandatory professional development training courses established during the past year and the subjects under consideration for future mandatory training.

§ 156.095. Professional development programs - Professional development coordinator - Long-term improvement plans - Suicide prevention awareness information - Evidence-informed trainings on child abuse and neglect - Electronic consumer bulletin board - Training to address needs of students at risk - Teacher academics - Annual report to Juvenile Justice Oversight Council.

(1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include assisting with needs assessments, analyzing school data, planning and evaluation assistance, organizing districtwide programs requested by school councils or groups of teachers, or other coordination activities.

(a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.
(b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.

(3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents.
when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451, including reducing the achievement gaps as determined by an equity analysis of the disaggregated student performance data from the state assessment program developed under KRS 158.6453; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs shall be made available to teachers based on their needs which shall include but not be limited to the following areas:

(a) Strategies to reduce the achievement gaps among various groups of students and to provide continuous progress;
(b) Curriculum content and methods of instruction for each content area, including differentiated instruction;
(c) School-based decision making;
(d) Assessment literacy;
(e) Integration of performance-based student assessment into daily classroom instruction;
(f) Nongraded primary programs;
(g) Research-based instructional practices;
(h) Instructional uses of technology;
(i) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;
(j) Instruction in reading, including phonics, phonemic awareness, comprehension, fluency, and vocabulary;
(k) Educational leadership; and
(l) Strategies to incorporate character education throughout the curriculum.

(4) The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.

(5) The department shall assist districts and school councils with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.

(a) Professional development strategies may include, but are not limited to, participation in subject matter academies, teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.

(b) In planning the use of the four (4) days for professional development under KRS 158.070, school councils and districts shall give priority to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. The district may use up to one (1) day to provide district-wide training and training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.

(c) State funds allocated for professional development shall be used to support professional development initiatives that are consistent with local school improvement and professional development plans and teachers' individual growth plans. The funds may be used throughout the year for all staff, including classified and certified staff and parents on school councils or committees. A portion of the funds allocated to each school council under KRS 160.345 may be used to prepare or enhance the teachers' knowledge and teaching practices related to the content and subject matter that are required for their specific classroom assignments.
(6) (a) By August 1, 2010, the Kentucky Cabinet for Health and Family Services shall post on its Web page suicide prevention awareness information, to include recognizing the warning signs of a suicide crisis. The Web page shall include information related to suicide prevention training opportunities offered by the cabinet or an agency recognized by the cabinet as a training provider.
(b) By September 1, 2010, and September 1 of each year thereafter, every public middle and high school administrator shall disseminate suicide prevention awareness information to all middle and high school students. The information may be obtained from the Cabinet for Health and Family Services or from a commercially developed suicide prevention training program.

(7) (a) The Kentucky Department of Education shall develop and maintain a list of approved comprehensive evidence-informed trainings on child abuse and neglect prevention, recognition, and reporting that encompass child physical, sexual, and emotional abuse and neglect.
(b) The trainings shall be Web-based or in-person and cover, at a minimum, the following topics:
   1. Recognizing child physical, sexual, and emotional abuse and neglect;
   2. Reporting suspected child abuse and neglect in Kentucky as required by KRS 620.030 and the appropriate documentation;
   3. Responding to the child; and
   4. Understanding the response of child protective services.
(c) The trainings shall include a questionnaire or other basic assessment tool upon completion to document basic knowledge of training components.
(d) Each local school board shall adopt one (1) or more trainings from the list approved by the Department of Education to be implemented by schools.
(e) All current school administrators, certified personnel, office staff, instructional assistants, and coaches and extracurricular sponsors who are employed by the school district shall complete the implemented training or trainings by January 31, 2017, and then every two (2) years after.
(f) All school administrators, certified personnel, office staff, instructional assistants, and coaches and extracurricular sponsors who are employed by the school district hired after January 31, 2017, shall complete the implemented training or trainings within ninety (90) days of being hired and then every two (2) years after.
(g) Every public school shall prominently display the statewide child abuse hotline number administered by the Cabinet for Health and Family Services.

(8) The Department of Education shall establish an electronic consumer bulletin board that posts information regarding professional development providers and programs as a service to school district central office personnel, school councils, teachers, and administrators. Participation on the electronic consumer bulletin board shall be voluntary for professional development providers or vendors, but shall include all programs sponsored by the department. Participants shall provide the following information: program title; name of provider or vendor; qualifications of the presenters or instructors; objectives of the program; program length; services provided, including follow-up support; costs for participation and costs of materials; names of previous users of the program, addresses, and telephone numbers; and arrangements required. Posting information on the bulletin board by the department shall not be viewed as an endorsement of the quality of any specific provider or program.
The Department of Education shall provide training to address the characteristics and instructional needs of students at risk of school failure and most likely to drop out of school. The training shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with these students. The training for instructional personnel shall be designed to provide and enhance skills of personnel to:

(a) Identify at-risk students early in elementary schools as well as at-risk and potential dropouts in the middle and high schools;
(b) Plan specific instructional strategies to teach at-risk students;
(c) Improve the academic achievement of students at risk of school failure by providing individualized and extra instructional support to increase expectations for targeted students;
(d) Involve parents as partners in ways to help their children and to improve their children's academic progress; and
(e) Significantly reduce the dropout rate of all students.

The department shall establish teacher academies to the extent funding is available in cooperation with postsecondary education institutions for elementary, middle school, and high school faculty in core disciplines, utilizing facilities and faculty from universities and colleges, local school districts, and other appropriate agencies throughout the state. Priority for participation shall be given to those teachers who are teaching core discipline courses for which they do not have a major or minor or the equivalent. Participation of teachers shall be voluntary.

The department shall annually provide to the oversight council established in KRS 15A.063, the information received from local schools pursuant to KRS 158.449.

§ 620.030. Duty to report dependency, neglect, or abuse; husband-wife and professional-client/patient privileges not grounds for refusal to report; exceptions; penalties.


(1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected, or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect, or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Department of Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.

(2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer, or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected, or abused, regardless of whether the person believed to have caused the dependency, neglect, or abuse is a parent, guardian, person exercising custodial control or supervision, or another person, or who has attended such child as a part of his or her professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Department of Kentucky State Police or the Commonwealth's or county attorney, the cabinet or its designated
representative within forty-eight (48) hours of the original report a written report containing:

(a) The names and addresses of the child and his or her parents or other persons exercising custodial control or supervision;
(b) The child's age;
(c) The nature and extent of the child's alleged dependency, neglect, or abuse, including any previous charges of dependency, neglect, or abuse, to this child or his or her siblings;
(d) The name and address of the person allegedly responsible for the abuse or neglect; and
(e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

(3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(4) The cabinet upon request shall receive from any agency of the state or any other agency, institution, or facility providing services to the child or his or her family, such cooperation, assistance, and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

(5) Any person who intentionally violates the provisions of this section shall be guilty of a:

(a) Class B misdemeanor for the first offense;
(b) Class A misdemeanor for the second offense; and
(c) Class D felony for each subsequent offense.

§ 620.040. Duties of prosecutor, police, and cabinet; prohibition as to school personnel; multidisciplinary teams.


(1) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall immediately notify the cabinet or its designated representative, the local law enforcement agency or the Department of Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.

(b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.

(c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local law enforcement agency or the Department of Kentucky State Police concerning the action that has been taken on the investigation.

(d) If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall immediately notify the Commonwealth's or county attorney and the
local law enforcement agency or the Department of Kentucky State Police.

(2) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall immediately notify the cabinet or its designated representative.
(b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.
(c) The cabinet need not notify the local law enforcement agency or the Department of Kentucky State Police or county attorney or Commonwealth's attorney of reports made under this subsection.

(3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall immediately notify the local law enforcement agency or the Department of Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents, and they shall investigate the matter. The cabinet or its designated representative shall participate in an investigation of noncustodial physical abuse or neglect at the request of the local law enforcement agency or the Department of Kentucky State Police. The cabinet shall participate in all investigations of reported or suspected sexual abuse of a child.

(4) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.

(5) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be requested from, and may be issued by, the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant, a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
(b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he or she is returned to the persons having custody of him or her, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.
(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he or she shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

(6) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children’s advocacy center.

(7)

(a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
(b) Membership of the multidisciplinary team shall include but shall not be limited to social service workers employed by the Cabinet for Health and Family Services and law enforcement officers. Additional team members may include Commonwealth’s and county attorneys, children’s advocacy center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.
(c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child or is not responsible for the child’s welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
(d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies’ responses assessed.
(e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.
(f) Multidisciplinary team members and anyone invited by the multidisciplinary team to participate in a meeting shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members and others attending meetings shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.
(g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
(h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.
(i) To the extent practicable, multidisciplinary teams shall be staffed by the local children’s advocacy center.
§ 620.050. Immunity for good faith actions or reports; investigations; confidentiality of reports; exceptions; parent's access to records; sharing of information by children's advocacy centers; confidentiality of interview with child; exceptions; confidentiality of identifying information regarding reporting individual; internal review and report.


(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.

(2) Any employee or designated agent of a children's advocacy center shall be immune from any civil liability arising from performance within the scope of the person's duties as provided in KRS 620.030 to 620.050. Any such person shall have the same immunity with respect to participation in any judicial proceeding. Nothing in this subsection shall limit liability for negligence. Upon the request of an employee or designated agent of a children's advocacy center, the Attorney General shall provide for the defense of any civil action brought against the employee or designated agent as provided under KRS 12.211 to 12.215.

(3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(5) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, except for those records provided for in subsection (6) of this section, shall not be divulged to anyone except:
   (a) Persons suspected of causing dependency, neglect, or abuse;
   (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
   (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
   (d) A licensed child-caring facility or child-placing agency evaluating placement for or serving a child who is believed to be the victim of an abuse, neglect, or dependency report;
   (e) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
   (f) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
   (g) Members of multidisciplinary teams as defined by KRS 620.020 and which
operate pursuant to KRS 431.600;

(h) Employees or designated agents of a children's advocacy center; or

(i) Those persons so authorized by court order.

(j) The external child fatality and near fatality review panel established by KRS 620.055.

(6)

(a) Files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a children's advocacy center in providing services under this chapter are confidential and shall not be disclosed except to the following persons:

1. Staff employed by the cabinet, law enforcement officers, and Commonwealth's and county attorneys who are directly involved in the investigation or prosecution of the case;

2. Medical and mental health professionals listed by name in a release of information signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms; and

3. The court and those persons so authorized by a court order.

4. The external child fatality and near fatality review panel established by KRS 620.055.

(b) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(7) Nothing in this section shall prohibit a parent or guardian from accessing records for his or her child providing that the parent or guardian is not currently under investigation by a law enforcement agency or the cabinet relating to the abuse of a child.

(8) Nothing in this section shall prohibit employees or designated agents of a children's advocacy center from disclosing information during a multidisciplinary team review of a child sexual abuse case as set forth under KRS 620.040. Persons receiving this information shall sign a confidentiality statement consistent with statutory prohibitions on disclosure of this information.

(9) Employees or designated agents of a children's advocacy center may confirm to another children's advocacy center that a child has been seen for services. If an information release has been signed by the guardian of the child, a children's advocacy center may disclose relevant information to another children's advocacy center.

(10)

(a) An interview of a child recorded at a children's advocacy center shall not be duplicated, except that the Commonwealth's or county attorney prosecuting the case may:

1. Make and retain one (1) copy of the interview; and

2. Make one (1) copy for the defendant's counsel that the defendant's counsel shall not duplicate.

(b) The defendant's counsel shall file the copy with the court clerk at the close of the case.

(c) Unless objected to by the victim or victims, the court, on its own motion, or on motion of the attorney for the Commonwealth shall order all recorded interviews that are introduced into evidence or are in the possession of the children's advocacy center, law enforcement, the prosecution, or the court to be sealed.

(d) The provisions of this subsection shall not be construed as to contravene
the Rules of Criminal Procedure relating to discovery.

(11) Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:
(a) To law enforcement officials that have a legitimate interest in the case;
(b) To the agency designated by the cabinet to investigate or assess the report;
(c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600; or
(d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report.
(e) The external child fatality and near fatality review panel established by KRS 620.055.

(12)
(a) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.
(b) The cabinet shall conduct an internal review of any case where child abuse or neglect has resulted in a child fatality or near fatality and the cabinet had prior involvement with the child or family. The cabinet shall prepare a summary that includes an account of:
1. The cabinet's actions and any policy or personnel changes taken or to be taken, including the results of appeals, as a result of the findings from the internal review; and
2. Any cooperation, assistance, or information from any agency of the state or any other agency, institution, or facility providing services to the child or family that were requested and received by the cabinet during the investigation of a child fatality or near fatality.
(c) The cabinet shall submit a report by September 1 of each year containing an analysis of all summaries of internal reviews occurring during the previous year and an analysis of historical trends to the Governor, the General Assembly, and the state child fatality review team created under KRS 211.684.

(13) When an adult who is the subject of information made confidential by subsection (5) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (5) of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.

(14) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of these reports. These photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

(15) In accordance with 42 U.S.C. sec. 671, the cabinet shall share information about a child in the custody of the cabinet with a relative or a parent of the child's sibling for the purposes of:
(a) Evaluating or arranging a placement for the child;
(b) Arranging appropriate treatment services for the child; or
(c) Establishing visitation between the child and a relative, including a sibling of the child.

§ 620.990. Penalty.


(1) Except as otherwise provided in this chapter, any person intentionally violating the provisions of this chapter shall be guilty of a Class B misdemeanor.

(2) The use of information by public officers and by defense counsel for purposes of investigation and trial of cases or other proceedings under the provisions of KRS Chapters 600 to 645 or in any criminal prosecution or appeal shall not constitute a violation of this chapter.
§ 424.10. CASA; immunity.

No cause of action shall exist against any CASA volunteer, director, employee, staff, or volunteer who in good faith makes a report, cooperates in an investigation by an agency, or participates in judicial proceedings. Each such person shall have immunity from civil or criminal liability that might otherwise be incurred or imposed. This immunity from liability shall not extend to:

1. An alleged principal, conspirator, or accessory to an offense involving the abuse or neglect or sexual exploitation of a child.
2. A person who makes a report known to be false or with reckless disregard for the truth of the report.
3. The unauthorized divulging of confidential information occasioned by the CASA volunteer's gross fault or gross neglect.

§ 603. Definitions; mandatory reporter; abuse; neglect; etc.

As used in this Title:

1. “Abortion” means that procedure as defined in R.S. 40:1061.9.

2. “Abuse” means any one of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:
   a. The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.
   b. The exploitation or overwork of a child by a parent or any other person, including but not limited to commercial sexual exploitation of the child.
   c. The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent, caretaker, or any other person of the child's involvement in any of the following:
      i. Any sexual act with any other person.
      ii. Pornographic displays.
      iii. Any sexual activity constituting a crime under the laws of this state.
   d. A coerced abortion conducted upon a child.

3. “Administrative review body” means a panel of appropriate persons, at least one of whom is not responsible for the case management of or delivery of services to either the child or the parents who are the subject of the review, including the citizen review boards, state hearing examiners, special department reviewers, or department personnel.

4. “Caretaker” means any person legally obligated to provide or secure adequate care for a child, including a parent, tutor, guardian, legal custodian, foster home parent, an employee of a public or private day care center, an operator or employee of a registered family child day care home, or other person providing a residence for the child.

5. “Case review hearing” means a review hearing by a court or administrative review body for the purpose of determining the continuing necessity for and appropriateness of the child's placement, to determine the extent of compliance with the case plan, to determine the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement, and to project a likely date by which the child may be permanently placed.

6. “Child” means a person under eighteen years of age who, prior to juvenile
proceedings, has not been judicially emancipated under Civil Code Article 385 or emancipated by marriage under Civil Code Articles 379 through 384.

(7) “Child care agency” means any public or private agency exercising custody of a child.

(8) “Child pornography” means visual depiction of a child engaged in actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals.

(9) “Coerced abortion” means the use of force, intimidation, threat of force, threat of deprivation of food and shelter, or the deprivation of food and shelter by a parent or any other person in order to compel a female child to undergo an abortion against her will, whether or not the abortion procedure has been attempted or completed.

(9.1) “Commercial sexual exploitation” means involvement of the child activity prohibited by the following statutes: R.S. 14:46.2, 46.3, 81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.

(10) “Concurrent planning” means departmental efforts to preserve and reunify a family, or to place a child for adoption or with a legal guardian which are made simultaneously.

(11) “Court-appointed or court-approved administrative body” means a body appointed or approved by a court and subject to the court's supervision for the purposes of assisting the court with permanency hearings, including magistrates or other court or noncourt personnel. This body shall not be a part of the Department of Children and Family Services or the Department of Public Safety and Corrections, nor subject to the supervision or direction of either department.

(12) “Crime against the child” shall include the commission of or the attempted commission of any of the following crimes against the child as provided by federal or state statutes:
   (a) Homicide.
   (b) Battery.
   (c) Assault.
   (d) Rape.
   (e) Sexual battery.
   (f) Kidnapping.
   (g) Criminal neglect.
   (h) Criminal abandonment.
   (j) Carnal knowledge of a juvenile.
   (k) Indecent behavior with juveniles.
   (l) Pornography involving juveniles.
   (m) Molestation of a juvenile.
   (n) Crime against nature.
   (o) Cruelty to juveniles.
   (p) Contributing to the delinquency or dependency of children.
   (q) Sale of minor children.
   (r) Human trafficking.
   (s) Trafficking of children for sexual purposes.

(13) “Department” means the Department of Children and Family Services.

(14) “Foster care” means placement in a foster family home, a relative's home, a residential child caring facility, or other living arrangement approved and supervised by the state for provision of substitute care for a child in the department's custody.
Such placement shall not include a detention facility.

(15) “Foster parent” means an individual who provides residential foster care with the approval and under the supervision of the department for a child in its custody.

(16) “Institutional abuse or neglect” means any case of child abuse or neglect that occurs in any public or private facility that provides residential child care, treatment, or education.

(17) “Mandatory reporter” is any of the following individuals:
   (a) “Health practitioner” is any individual who provides health care services, including a physician, surgeon, physical therapist, dentist, resident, intern, hospital staff member, podiatrist, chiropractor, licensed nurse, nursing aide, dental hygienist, any emergency medical technician, a paramedic, optometrist, medical examiner, or coroner, who diagnoses, examines, or treats a child or his family.
   (b) “Mental health/social service practitioner” is any individual who provides mental health care or social service diagnosis, assessment, counseling, or treatment, including a psychiatrist, psychologist, marriage or family counselor, social worker, member of the clergy, aide, or other individual who provides counseling services to a child or his family. Notwithstanding any other provision of law to the contrary, when representing a child, as defined in this Code, in a case arising out of this Code, a mental health/social service practitioner shall not be considered a mandatory reporter under the following limited circumstances: (i) when the practitioner is engaged by an attorney to assist in the rendition of professional legal services to that child, (ii) when the information that would serve as the basis for reporting arises in furtherance of facilitating the rendition of those professional legal services to that child, and (iii) when the information that would serve as the basis for reporting is documented by the mental health/social service practitioner. The documentation shall be retained by the mental health/social service practitioner until one year after the child has reached the age of majority.
   (c) “Member of the clergy” is any priest, rabbi, duly ordained clerical deacon or minister, Christian Science practitioner, or other similarly situated functionary of a religious organization, except that he is not required to report a confidential communication, as defined in Code of Evidence Article 511, from a person to a member of the clergy who, in the course of the discipline or practice of that church, denomination, or organization, is authorized or accustomed to hearing confidential communications, and under the discipline or tenets of the church, denomination, or organization has a duty to keep such communications confidential. In that instance, he shall encourage that person to report the allegations to the appropriate authorities in accordance with Article 610.
   (d) “Teaching or child care provider” is any person who provides or assists in the teaching, training, and supervision of a child, including any public or private teacher, teacher's aide, instructional aide, school principal, school staff member, bus driver, coach, professor, technical or vocational instructor, technical or vocational school staff member, college or university administrator, college or university staff member, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, or any individual who provides such services to a child in a voluntary or professional capacity.
   (e) Police officers or law enforcement officials.
   (f) “Commercial film and photographic print processor” is any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides for compensation.
   (g) Mediators appointed pursuant to Chapter 6 of Title IV.
(h) A parenting coordinator appointed pursuant to R.S. 9:358.1 et seq.
(i) A court-appointed special advocates (CASA) volunteer under the supervision of a CASA program appointed pursuant to Chapter 4 of Title IV.
(j) "Organizational or youth activity provider" is any person who provides organized activities for children, including administrators, employees, or volunteers of any day camp, summer camp, youth center, or youth recreation programs or any other organization that provides organized activities for children.
(k) School coaches, including but not limited to public technical or vocational school, community college, college, or university coaches and coaches of intramural or interscholastic athletics.

(18) "Neglect" means the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired. Neglect includes prenatal neglect. Consistent with Article 606(B), the inability of a parent or caretaker to provide for a child due to inadequate financial resources shall not, for that reason alone, be considered neglect. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing which has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or maltreated. However, nothing herein shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health or welfare.

NOTE: Paragraph (19) as enacted by Acts 2017, No. 359, §1, eff. upon adoption of rules by DCFS pursuant to Acts 2017, No. 359, §4.

(19) "Newborn" means a child who is not more than thirty days old, as determined within a reasonable degree of medical certainty by an examining physician.

(20) "Other suitable individual" means a person with whom the child enjoys a close established significant relationship, yet not a blood relative, including a neighbor, godparent, teacher and close friend of the parent. "Relative" for the purpose of this title means an individual with whom the child has established a significant relationship by blood, adoption, or affinity.

(21) "Permanency hearing" means a hearing for the purpose of determining the permanent plan for the child.

(22) "Permanent placement" means:
(a) Return of the legal custody of a child to his parent(s).
(b) Placement of the child with adoptive parents pursuant to a final decree of adoption.
(c) Placement of the child with a legal guardian.

(23) "Person" means any individual, partnership, association, agency, or corporation, and specifically shall include city, parish, or state law enforcement agencies, and a parish or city school board or a person employed by a parish or city school board.

NOTE: Paragraph (24) eff. until adoption of rules by DCFS pursuant to Acts 2017, No. 359, §4.

(24) "Prenatal neglect" means the unlawful use by a mother during pregnancy of a controlled dangerous substance, as defined by R.S. 40:961 et seq., which results in symptoms of withdrawal in the infant or the presence of a controlled substance in the infant's body.

“Prenatal neglect” means exposure to chronic or severe use of alcohol or the unlawful use of any controlled dangerous substance, as defined by R.S. 40:961 et seq., or in a manner not lawfully prescribed, which results in symptoms of withdrawal in the newborn or the presence of a controlled substance or a metabolic thereof in his body, blood, urine, or meconium that is not the result of medical treatment, or observable and harmful effects in his physical appearance or functioning.

“Reasonable efforts” means the exercise of ordinary diligence and care by department caseworkers and supervisors and shall assume the availability of a reasonable program of services to children and their families.

“Removal” means placing a child in the custody of the state or with someone other than the parent or caretaker during or after the course of an investigation of abuse and neglect to secure the child's protection and safeguard the child's welfare.

“Safety plan” means a plan for the purpose of assuring a child's health and safety by imposing conditions for the child to safely remain in the home, or, after a child has been removed from the home, for the continued placement of the child with a custodian and terms for contact between the child and his parents or other persons.

§ 603.1. Required education; reporting child abuse.

Commencing May 1, 2006, every person graduating from any teacher preparation program in Louisiana shall have had in his curriculum instruction on the requirements of and how to report suspected child abuse cases pursuant to Children's Code Article 601 et seq., as well as instruction on how to identify the signs and symptoms of child neglect and abuse, including sexual abuse, in order to receive his teacher certification.

§ 609. Mandatory and permitted reporting; training requirements.

A. With respect to mandatory reporters:
   (1) Notwithstanding any claim of privileged communication, any mandatory reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect or that abuse or neglect was a contributing factor in a child's death shall report in accordance with Article 610.
   (2) Violation of the duties imposed upon a mandatory reporter subjects the offender to criminal prosecution authorized by R.S. 14:403(A)(1).
   (3) To familiarize mandatory reporters, as defined by Children's Code Article 603(15), with their legal mandate for reporting suspected child abuse and neglect, such mandatory reporters shall be offered training on the statutory requirements and responsibility of reporting child abuse and neglect. This training shall be made available by the child welfare division of the Department of Children and Family Services or any other mechanism as approved by the department as long as it includes information on the reporting procedure and the consequences of failing to report.
      (a) Each mandatory reporter may obtain mandatory reporting training as each mandatory reporter believes to be necessary in accordance with Subsubparagraph (a) or (d) of this Subparagraph.
      (b) The appropriate state regulatory department, board, commission, or agency for each category of mandatory reporter may provide continuing education credit for the completion of the training pursuant to this Paragraph.
   (d) Any entity, including but not limited to hospitals, educational and
religious institutions, and nonprofits, may provide its employees, volunteers, or educational attendees with equivalent training pursuant to Subsubparagraph (a) of this Subparagraph.

B. With respect to permitted reporters, any other person having cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect, including a judge of any court of this state, may report in accordance with Article 610.

C. The filing of a report, known to be false, may subject the offender to criminal prosecution authorized by R.S. 14:403(A)(3).

§ 610. Reporting procedure; report to the legislature.  

A. Reports of child abuse or neglect or that such was a contributing factor in a child's death, where the abuser is believed to be a parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, shall be made immediately to the department through the designated state child protection reporting hotline telephone number. Reports in which the abuse or neglect is believed to be perpetrated by someone other than a caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, and the caretaker is not believed to have any responsibility for the abuse or neglect shall be made immediately to a local or state law enforcement agency. Dual reporting to both the department through the designated state child protection reporting hotline telephone number and the local or state law enforcement agency is permitted.

B. The report shall contain the following information, if known:
   (1) The name, address, age, sex, and race of the child.
   (2) The nature, extent, and cause of the child's injuries or endangered condition, including any previous known or suspected abuse to this child or the child's siblings.
   (3) The name and address of the child's parent(s) or other caretaker.
   (4) The names and ages of all other members of the child's household.
   (5) The name and address of the reporter.
   (6) An account of how this child came to the reporter's attention.
   (7) Any explanation of the cause of the child's injury or condition offered by the child, the caretaker, or any other person.
   (8) The number of times the reporter has filed a report on the child or the child's siblings.
   (9) Any other information which the reporter believes might be important or relevant.

C. The report shall also name the person or persons who are thought to have caused or contributed to the child's condition, if known, and the report shall contain the name of such person if he is named by the child.

D. If the initial report was in oral form by a mandatory reporter, it shall be followed by a written report made within five days to the local child protection unit of the department or, if necessary to the local law enforcement agency. The reporter may use a form for the written report, which shall be developed, approved and made available by the Department of Children and Family Services. The form is optional and may be available electronically on the department's website.

E.
(1) All reports made to any local or state law enforcement agency involving abuse or neglect in which the child's parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, is believed responsible shall be promptly communicated to the department through the designated state child protection reporting hotline telephone number in accordance with a written working agreement developed between the local law enforcement agency and the department.

(2) The department shall promptly communicate abuse or neglect cases not involving a parent, caretaker, or occupant of the household to the appropriate law enforcement agency in accordance with a written working agreement developed between the department and law enforcement agency. The department also shall report all cases of child death which involve a suspicion of abuse or neglect as a contributing factor in the child's death to the local and state law enforcement agencies, the office of the district attorney, and the coroner.

(3) Reports involving a felony-grade crime against a child shall be promptly communicated to the appropriate law enforcement authorities as part of the interagency protocols for multidisciplinary investigations of child abuse and neglect in each judicial district as provided in Articles 509 and 510.

F. Any commercial film or photographic print processor who has knowledge of or observes, within the scope of this professional capacity or employment, any film, photograph, video tape, negative, or slide depicting a child who he knows or should know is under the age of seventeen years, which constitutes child pornography as defined in Article 603, shall report immediately to the local law enforcement agency having jurisdiction over the case. The reporter shall provide a copy of the film, photograph, videotape, negative, or slide to the agency receiving the report.

G.

(1) If a physician has cause to believe that a newborn was exposed in utero to an unlawfully used controlled dangerous substance, as defined by R.S. 40:961 et seq., the physician shall order a toxicology test upon the newborn, without the consent of the newborn's parents or guardian, to determine whether there is evidence of prenatal neglect. If the test results are positive, the physician shall issue a report, as soon as possible, in accordance with this Article. If the test results are negative, all identifying information shall be obliterated if the record is retained, unless the parent approves the inclusion of identifying information. Positive test results shall not be admissible in a criminal prosecution.

(2) If there are symptoms of withdrawal in the newborn or other observable and harmful effects in his physical appearance or functioning that a physician has cause to believe are due to the chronic or severe use of alcohol by the mother during pregnancy or are the effects of fetal alcohol spectrum disorder, the physician shall issue a report in accordance with this Article.

H.

(1) The provisions of this Paragraph shall be known and may be cited as The Alfred C. Williams Child Protection Act.

(2) Beginning May 1, 2017, and annually thereafter, the department shall provide to the legislature the following child-specific information regarding reports of child abuse or neglect reported to the department pursuant to the provisions of this Article:

(a) The actual or estimated age, the sex, and the race of each child at the time the latest report was received.

(b) The parish location of primary case name of the latest report accepted for investigation received.
(c) The categories, levels, and final findings assigned to each allegation contained in reports received for each child.
(d) The number of cases accepted for investigation in which the child was an alleged or valid victim during the report year.
(e) The number of cases accepted for investigation in which the child was a valid victim during the report year.
(f) The number of reports accepted for investigation prior to report year in which the child was an alleged or valid victim.
(g) The number of other alleged victims in reports accepted for investigation in each child’s cases prior to report year.
(h) The number of reports accepted for investigation prior to the report year in which the child was a valid victim.
(i) The number of other validated victims in reports accepted for investigation in each child’s cases prior to report year.
(j) The number of distinct reporter names for all investigations in which the child is an alleged or valid victim.

(3) For purposes of this Paragraph, the following words shall have the following meanings:
(a) “Alleged victim” includes a child who is the subject of an investigation and for whom there is an allegation of abuse or neglect.
(b) “Valid victim” or “validated victim” includes an alleged victim for whom one or more allegations of abuse or neglect have been determined to be justified pursuant to Article 615.

(4) The information provided in the annual report required by Subparagraph (2) of this Paragraph shall not include the name, street address, or other identifying information of any child, parent, sibling, or reporter.

(5) If the department fails to submit timely the report required by Subparagraph (2) of this Paragraph, then the legislature or either house thereof, through its authorized representative, may petition the Nineteenth Judicial District Court for writs of mandamus to compel the submission of the report. Any failure to obey a writ of mandamus issued by the court may be punishable by the court as contempt thereof.

§ 611. Immunity from civil or criminal liability.

A.

(1) No cause of action shall exist against any:
   (a) Person who in good faith makes a report, cooperates in any investigation arising as a result of such report, or participates in judicial proceedings authorized under the provisions of this Chapter.
   NOTE: Subsubparagraph (A)(1)(b) eff. until promulgation and publication of rules by DCFS of the final rules to implement the provisions of this Act.
   (b) Caseworker who in good faith conducts an investigation, makes an investigative judgment or disposition, or releases or uses information contained in the central registry for the purpose of protecting a child.
   NOTE: Subsubparagraph (A)(1)(b) shall become eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.
   (b) Caseworker who in good faith conducts an investigation, makes an investigative judgment or disposition, or releases or uses information contained in the state repository or central registry for the purpose of protecting a child.
   (2) Such individuals shall have immunity from civil or criminal liability that
otherwise might be incurred or imposed.

B. This immunity shall not be extended to:
   (1) Any alleged principal, conspirator, or accessory to an offense involving the
       abuse or neglect of the child.
   (2) Any person who makes a report known to be false or with reckless
       disregard for the truth of the report.

C. 
   (1) In any action to establish damages against a defendant who has made
       a false report of child abuse or neglect, the plaintiff shall bear the burden
       of proving that the defendant who filed the false report of child abuse or
       neglect knew the report was false or that the report was filed with reckless
       disregard for the truth of the report.
   (2) A plaintiff who fails to meet his burden of proof provided in Subparagraph
       (1) of this Paragraph shall pay all court costs and attorney fees of the
       defendant.

§ 612.1. Institutional abuse; corrective measures.
La Child Code Ann. Art. 612.1

A. Upon a finding of institutional abuse or neglect, resulting from a single act or
   occurrence, the department shall require that the owner, operator, or administrator
   of the facility formulate a plan of remedial action. Within thirty days of the
   department's request, the owner, operator, or administrator shall notify the agency
   in writing of a plan of remedial action. Within ninety days of the request, the owner,
   operator, or administrator shall fully implement the plan for remedial action, unless
   otherwise agreed to by the department.

B. Upon a finding of institutional abuse or neglect resulting from several incidents
   that have occurred at the facility, within seven days of the finding, the department
   shall require that the owner, operator, or administrator of the facility make
   appropriate administrative, personnel, or structural changes at the facility. Within
   thirty days of such request, the owner, operator, or administrator of the facility
   shall notify the department of the progress in complying with the requirement. The
   department and the owner, operator, or administrator shall establish a reasonable
   period in which the requested changes shall be completed.

C. If an owner, operator, or administrator of a facility does not formulate or
   implement a plan for remedial action or make requested changes, the department
   shall recommend to the entity that licenses, oversees, certifies, or authorizes the
   operation of the facility, that appropriate sanctions or actions be imposed against the
   facility.

D. If there is reasonable cause to believe that a teacher, employee, volunteer, or other
   staff person has committed an act of child abuse or neglect, he shall be temporarily
   removed from his position at the institution or reassigned to other duties in which he
   will not have contact with the child victim or other children.

E. In accordance with the Administrative Procedure Act, the department shall adopt
   rules setting forth the procedures for the investigation and reporting of institutional
   abuse. Such rules may provide for the investigation to be conducted by an agency
   that contracts with the state whose staff is trained to conduct such investigations.
   The procedures may include the use of review teams to make recommendations to
   the department concerning the procedures for investigating institutional abuse or
   neglect.
§ 615.1. Reports; review by district attorney.
La Child Code Ann. Art. 615.1

A. When a law enforcement agency receives a report of a crime involving sexual abuse of a child, including but not limited to those received pursuant to Louisiana Children's Code Article 610(E)(3), the law enforcement agency shall:

(1) Maintain a report containing all information listed in Louisiana Children's Code Article 610(B) and (C), if known, and conduct a full investigation of the allegations.
(2) Maintain the confidentiality of the identity of the reporter in accordance with R.S. 46:56.
(3) After investigation of the report of child sexual abuse by the law enforcement agency having jurisdiction over the reported incident, send the investigative file to the district attorney for review whether or not an arrest is made.

B. In cases involving allegations of sexual abuse of a child:

(1) If the district attorney determines that the report has been fully investigated and there is insufficient evidence to establish probable cause for arrest, the district attorney shall upload the information contained in the report pursuant to Louisiana Children's Code Article 610(B) and (C) to the central registry for children in need of care maintained by the Bureau of Criminal Identification and Information in the office of state police if an alleged perpetrator has been identified. The information uploaded to the registry shall also include the name of the law enforcement agency that handled the investigation of the complaint.
(2) If the district attorney determines that the report needs further investigation, he shall refer the report to the multidisciplinary team established pursuant to Louisiana Children's Code Article 507 et seq. If, after a multidisciplinary team investigation, there is still insufficient evidence to establish probable cause for an arrest, the pertinent information in the report shall be uploaded to the bureau as provided in Subparagraph (B)(1) of this Article.
(3) In no case shall the district attorney forward information to the Bureau of Criminal Identification and Information in the office of state police when the district attorney finds, based on the investigation, that the allegations are false.

§ 616. Central registry; screening court-appointed special advocates volunteers; confidentiality.
La Child Code Ann. Art. 616

A. The department shall maintain a central registry of all reports of abuse and neglect. The purpose of this central registry, among other uses, is to provide information of past reports of child abuse or neglect of children to assist in the proper evaluation of current reports of abuse or neglect which may include a pattern of incidents.

B. Except as provided in this Article or R.S. 46:56, all records of reports of child abuse or neglect are confidential. The department shall promulgate rules regarding the maintenance, deletion, and release of information in the central registry, determined by the types of disposition made pursuant to Article 615.

C. Upon the written request of the court during its evaluation of an individual applying to work as a court-appointed special advocate and with the consent of the applicant, the department shall search the central registry and report to the court any justified report of abuse or neglect alleging that the applicant is a perpetrator.
D. When, after an investigation, the determination is made by the department that the report does appear to be justified, any subsequent adjudication by a court exercising juvenile jurisdiction which dismisses the child in need of care petition involving this report shall be added to the central registry.


NOTE: Section heading and Paragraphs A through E shall become eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

Art. 616. State repository; central registry; screening court-appointed special advocates volunteers; confidentiality

A. The department shall maintain a state repository of all reports of abuse and neglect. The purpose of this state repository, among other uses, is to provide information of past reports of child abuse or neglect of children to assist in the proper evaluation of current reports of abuse or neglect which may include a pattern of incidents.

B. Within the state repository, the department shall maintain a state central registry of certain justified reports of abuse and neglect as set forth in rules promulgated by the department. The name of an individual who was placed on the state central registry as a perpetrator of abuse or neglect prior to the effective date of Children's Code Article 616.1.1 shall not be released outside of the department until that individual's administrative appeals are exhausted. After the effective date of Children's Code Article 616.1.1, the name of an individual who is determined to be a perpetrator of abuse or neglect shall not be placed on the state central registry until that individual's administrative appeals are exhausted. All decisions rendered by an administrative law judge are final, and the decisions shall exhaust the individual's administrative remedy.

C. Except as provided in this Article or R.S. 46:56, all records of reports of child abuse or neglect are confidential. The department shall promulgate rules regarding the maintenance, deletion, and release of information in the state repository and central registry.

D. Upon the written request of the court during its evaluation of an individual applying to work as a court-appointed special advocate and with the consent of the applicant, the department shall search the central registry and report to the court any justified report of abuse or neglect alleging that the applicant is a perpetrator.

E. When, after an investigation, the determination is made by the department that the report does appear to be justified, any subsequent adjudication by a court exercising juvenile jurisdiction which dismisses the child in need of care petition involving this report shall be added to the central registry.

F. Information from investigations of reports that are inconclusive may be disclosed, with the applicant's written consent, for the limited purposes of evaluating the applicant to be a CASA volunteer, a foster parent, an adoptive parent, or caregiver pursuant to R.S. 46:56(F)(11).

G. Violation of the confidentiality provisions of this Article, Article 615, or the lawful regulations of the department subjects the offender to criminal prosecution.
authorized by R.S. 14:403(A)(2).

NOTE: Paragraphs H and I shall become eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

H. The department may charge a fee, that shall not exceed twenty-five dollars, to conduct a search of the state central registry of justified abuse or neglect reports to determine whether an individual's name is recorded therein. A search shall be allowed only when specifically authorized.

I. The department shall promulgate, in accordance with the Administrative Procedure Act, all rules and regulations necessary to carry out the provisions of this Article.

§ 663. Evidence; suspension of privileges.
La Child Code Ann. Art. 663

A. Except as otherwise hereinafter provided, the adjudication hearing shall be conducted according to the rules of evidence applicable to civil proceedings.

B. The court may consider as evidence any videotape which is prepared in compliance with Chapter 8 of Title III and which is relevant to the proceeding.

C. Evidence of a prior criminal conviction shall be admissible in proceedings brought under this Title in order to prove allegations made under Article 606. Such proof shall be by certified copy of the judgment of conviction or certified copy of the minute entry of conviction in accordance with the Louisiana Code of Evidence.

D. Testimony or other evidence relevant to the abuse or neglect of a child or the cause of such condition may not be excluded on any ground of privilege, except in the case of confessions or communications between an attorney and his client or confidential communications between a priest, rabbi, duly ordained minister, or Christian Science practitioner and his confidential communicant.

§ 14:131.1. Failure to report the commission of certain felonies

A. It shall be unlawful for any person having knowledge of the commission of any homicide, rape, or sexual abuse of a child to fail to report or disclose such information to a law enforcement agency or district attorney, except when the person having such knowledge is bound by any privilege of confidentiality recognized by law.

B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned, with or without hard labor, for not more than one year, or both.

§ 14-403. Abuse of children; reports; waiver of privilege.

A.

(1) Any person who, pursuant to Children's Code Article 609(A), is required to report the abuse or neglect of a child and knowingly and willfully fails to so report shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.
(b) Any person who, pursuant to Children's Code Article 609(A), is required to report the sexual abuse of a child, or the abuse or neglect of a child which results in the serious bodily injury, neurological impairment, or death of the child, and knowingly and willfully fails to so report shall be fined not more than three thousand dollars, imprisoned, with or without hard labor, for not more than three years, or both. For purposes of this Subparagraph, “serious bodily injury” means injury involving protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or substantial risk of death.

(2) Any person, any employee of a local child protection unit of the Department of Children and Family Services, any employee of any local law enforcement agency, any employee or agent of any state department, or any school employee who knowingly and willfully violates the provisions of Chapter 5 of Title VI of the Children's Code, or who knowingly and willfully obstructs the procedures for receiving and investigating reports of child abuse or neglect or sexual abuse, or who discloses without authorization confidential information about or contained within such reports shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(3) Any person who reports a child as abused or neglected or sexually abused to the department or to any law enforcement agency, knowing that such information is false, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(4)

(a) Notwithstanding the provisions of Subparagraphs (1)(a) and (b) of this Subsection, any person who is eighteen years of age or older who witnesses the sexual abuse of a child and knowingly or willfully fails to report the abuse to law enforcement or to the Department of Children and Family Services as required by Children's Code Article 610, shall be fined not more than ten thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(b) For purposes of this Paragraph, “sexual abuse” shall include but is not limited to the perpetration or the attempted perpetration of R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.3, 46.2, 46.3, 78, 78.1, 80, 81, 81.1, 81.2, 89, or 89.1.

B. In any proceeding concerning the abuse or neglect or sexual abuse of a child or the cause of such condition, evidence may not be excluded on any ground of privilege, except in the case of communications between an attorney and his client or between a priest, rabbi, duly ordained minister or Christian Science practitioner and his communicant.

§ 15-545.1. Duty of interactive computer service.

A.

(1) Upon request from a law enforcement agency, the interactive computer service shall take all steps necessary to preserve records and other evidence in its possession pending the issuance of a court order or other legal process. The provider of interactive computer service shall comply with the request as soon as reasonably practical following receipt.

(2) Records referred to in Paragraph (1) of this Subsection shall be retained for ninety days. This time period shall be extended for an additional ninety days upon further request of the law enforcement agency when the law enforcement agency requests the extension within the original ninety day period.

(3) Paragraphs (1) and (2) of this Subsection shall be interpreted in a manner...
consistent with the requirements of federal law that apply to providers of Internet service provided for in Chapter 121 of Title 18 of the United States Code and 42 U.S.C. 13032.

B.

(1) An interactive computer service shall release evidence regarding all categories of information identified in 18 U.S.C. 2703(c)(2) that are in its possession as soon as reasonably practical, considering other outstanding law enforcement and legal requests, after receiving a court order requiring the interactive computer service to release such evidence to law enforcement.

(2) Paragraph (1) of this Subsection shall be interpreted in a manner consistent with the requirements of federal law that apply to providers of Internet service provided for in Chapter 121 of Title 18 of the United States Code and 42 U.S.C. 13032.

C. An interactive computer service doing business in this state that obtains knowledge of facts or circumstances from which a violation of any law in this state prohibiting possession, distribution or creation of images containing child pornography or prohibiting sexual activity involving a child is apparent, shall make a report, as soon as reasonably possible, of such facts or circumstances to the Cyber Tip Line at the National Center for Missing and Exploited Children consistent with the requirements of 42 U.S.C. 13032.


A. No employee shall be discharged, demoted, suspended, threatened, harassed, or discriminated against in any manner in the terms and conditions of his employment because of any lawful act engaged in by the employee or on behalf of the employee in furtherance of any action taken to report the sexual abuse of a minor child by any fellow employee to law enforcement, whether such fellow employee is a co-worker, supervisor or subordinate.

B.

(1) An employee of a public or private entity may bring action for relief against his or her employer, in a court of competent jurisdiction, for damages associated with any action taken by the employee which is in furtherance of the protection of a minor child as is provided for in Subsection A of this Section.

(2) A person aggrieved of a violation of Subsection A of this Section shall be entitled to treble damages plus court costs and reasonable attorney fees.

C. A plaintiff shall not be entitled to recovery pursuant to this Section if the court finds that the plaintiff instituted or proceeded with an action that was frivolous, vexatious, or harassing.

The commissioner shall have the following educational duties.

1. General duty. The commissioner may inspect and have general supervision over all public schools and shall advise and direct superintendents and school boards in the discharge of their duties, by circular letters and personal conferences.

2. Training and development. The commissioner shall promote the importance of ongoing training and development and encourage initiatives that prepare school personnel to fully implement the system of learning results as established in section 6209.

3. Contracts for career and technical educational programs. The commissioner may:
   A. Contract with a private school for the conduct of career and technical education courses in accordance with section 3002; and
   B. Reimburse the private schools for part of the cost of conducting approved career and technical education courses from funds available from the Federal Government for the purpose of career and technical education.

4. Superintendent conference. Annually the commissioner shall hold a conference for the instruction of superintendents.

5. Medication. The commissioner shall provide for the administration of medication within schools as follows.
   A. The commissioner shall adopt rules for the administration of medication in public or approved private schools, including the training of unlicensed personnel to administer medication. The rules for training must describe how the department will provide training at the local level directly to unlicensed personnel in each school administrative unit or approved private school in the State. Rules adopted pursuant to this section are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.
   B. Any public or approved private school shall have a written local policy and procedure for administering medication. The written local policy must include the requirement that all unlicensed personnel who administer medication receive training before receiving authorization to do so. Compliance with the provisions of this subsection is a requirement for basic school approval pursuant to sections 2902 and 4502.
   C. A public school or a private school approved pursuant to section 2902 must have a written local policy authorizing students to possess and self-administer emergency medication from an asthma inhaler or an epinephrine pen. The written local policy must include the following requirements.
      (1) A student who self-administers an asthma inhaler or an epinephrine pen must have the prior written approval of the student's primary health care provider and, if the student is a minor, the prior written approval of the student's parent or guardian.
      (2) The student's parent or guardian must submit written verification to the school from the student's primary health care provider confirming that the student has the knowledge and the skills to safely possess and use an asthma inhaler or an epinephrine pen in school.
      (3) The school nurse shall evaluate the student's technique to ensure proper and effective use of an asthma inhaler or an epinephrine pen in school.

6. Other duties. The commissioner shall carry out all other duties assigned in this
Title.

7. Clearinghouse for information on nuclear usage.

8. Model hiring procedure.

9. Statewide goal.

10. Gender equity.

11. Statewide standards for behavior. In consultation with organizations representing school boards, school administrators, teachers, parents and other interested local officials and community members, the commissioner shall develop statewide standards for responsible and ethical student behavior. The standards must require annual reporting of incidents of violent and harmful behavior by or against students to the department by school administrative units. The department shall provide forms for reporting.

11-A. Model policy; reporting. By January 1, 2013, the commissioner shall develop a model policy to address bullying and cyberbullying for use by school administrative units pursuant to section 6554. A copy of the model policy must be sent to each school administrative unit in the State and posted on the publicly accessible portion of the department’s website along with any training and instructional materials related to the policy that the commissioner determines necessary.

A. The commissioner shall create a procedure by which school administrative units report substantiated incidents of bullying and cyberbullying to the department on at least an annual basis. These reports may not contain personally identifying information about students or other involved persons, but must delineate the specific nature of the incidents, the consequences and the actions taken.

B. The commissioner may update or revise the model policy and shall post the update or revision on the publicly accessible portion of the department’s website and send a copy of the update or revision to each school administrative unit.

12. Technical assistance and statewide standards for reintegration planning. In consultation with juvenile correctional officials, juvenile community corrections officers, organizations representing school boards, school administrators, teachers and parents and other interested local officials and community members, the commissioner shall develop a program of technical assistance and establish statewide standards for reintegration planning and transition services for juvenile offenders who are discharged from juvenile correctional facilities in the State, who have been enrolled in educational programs or schools for juveniles located in or operated by correctional facilities and who are transferring to schools located within local school administrative units in the State. The technical assistance and standards must include, but may not be limited to:

A. Timely presentation of student educational records pursuant to section 6001-B and other appropriate information, including confidential criminal justice information regarding juveniles pursuant to section 1055, subsections 11 and 12;

B. The level and scope of technical assistance to be provided by the department to local school officials and the level and scope of training that local school administrative units must provide to school personnel who may have access to confidential criminal justice information regarding juveniles pursuant to section 1055, subsections 11 and 12; and

C. Annual reporting to the department by superintendents of the number of juvenile offenders who are released or discharged from juvenile correctional facilities in the State and who enroll in schools located within their local...
school administrative units. The department shall provide forms for reporting.

13. Technical assistance; integrated model for instruction in personal finance. The commissioner shall develop a program of technical assistance that promotes the importance of financial literacy and encourages school administrative units to implement an integrated model for instruction in personal finance that may be used in secondary schools as part of the instruction in social studies or mathematics required by section 4722, subsection 2, paragraphs B and C. The commissioner, in consultation with the Finance Authority of Maine, the Office of Securities within the Department of Professional and Financial Regulation, Jobs for Maine's Graduates, organizations representing banks, credit unions and financial professionals and other interested organizations promoting personal finance initiatives, shall prepare and distribute annually, in January, a report to school boards and superintendents that includes strategies and resources available to implement an integrated model for instruction in personal finance for use in secondary schools. The annual report must also be provided to the joint standing committee of the Legislature having jurisdiction over education matters, and the department shall post the report on its publicly accessible website. The commissioner shall identify best practices to support students' financial literacy for those school administrative units that elect to offer financial literacy education pursuant to this subsection.

14. Transitional services for students with disabilities. To provide for an efficient and effective coordinated system of services across state agencies and local and private entities, the commissioner shall plan, coordinate and implement services for students with disabilities who are in transition from school to community in accordance with rules adopted by the department. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

15. Technical assistance; professional development and training for instruction in digital literacy; clearinghouse for information on use of online learning resources. The commissioner shall develop a program of technical assistance, including professional development and training for instruction in digital literacy and the establishment of a clearinghouse for information on the use of online learning resources that may be made available to all school administrative units, including those schools that participate in the learning through technology program under section 15689-A, subsection 12-A, which provides one-to-one wireless computers for 7th grade, 8th grade and high school students and educators. The technical assistance must include, but is not limited to:
   A. A model for instruction that promotes digital literacy for students;
   B. A clearinghouse for information on the use of online learning resources, including best practices in the use of open educational resources and open-source textbooks; and
   C. Professional development and training for educators in the effective use of online learning resources, including open educational resources and open-source textbooks.

The program of technical assistance provided by the department may be used by those schools and educators who choose to provide instruction in digital literacy and who choose to use online learning resources, including best practices in the use of open educational resources and open-source textbooks. The program of technical assistance provided by the department must be available to all school administrative units in the State and posted on the department's publicly accessible website.

16. Parental involvement initiatives. The commissioner shall strongly encourage each school board to adopt local procedures for implementing a districtwide parental involvement initiative as school board policy in accordance with section 255,
subsection 6.

17. Model policy for management of concussive and other head injuries. In consultation with organizations representing school principals, school boards, school superintendents, athletic directors, athletic trainers, sports medicine practitioners, the Acquired Brain Injury Advisory Council established in Title 34-B, section 19001 and other interested parties, the commissioner shall develop a model policy on the management of concussive and other head injuries in school activities and athletics.

18. Model policy; child sexual abuse prevention. The commissioner shall develop a model policy for child sexual abuse prevention education and response that may be used for public preschool programs operated in compliance with chapter 203, subchapter 3 and for all students enrolled in kindergarten to grade 5.
   A. No later than July 1, 2016, the commissioner, in consultation with the Department of Health and Human Services, organizations that have expertise in child sexual abuse prevention education and organizations representing school boards, administrators, teachers and parents, shall develop a model policy based on nationally recognized best practices that includes:
      (1) Child sexual abuse response and reporting procedures;
      (2) Child sexual abuse awareness training and prevention education for school personnel;
      (3) Age-appropriate child sexual abuse prevention education for students, aligned to the system of learning results established pursuant to section 6209 and delivered by qualified instructors;
      (4) School response and reporting procedures; and
      (5) Resources a victim of child sexual abuse or nonoffending caregivers of a victim of child sexual abuse may access for services and support.
   B. The department shall offer technical assistance to school administrative units that operate a public preschool program or an elementary school to aid in the establishment of a local child sexual abuse prevention education and response policy that is consistent with the model policy developed under paragraph A.
   C. The department shall send a copy of the model policy developed under paragraph A to each school administrative unit in the State and post the model policy on the publicly accessible portion of the department's website along with any related resources that the commissioner determines necessary.

19. Designation of school to enroll certain students. The commissioner may designate a school administrative unit as the receiving school administrative unit for a student who resides in a school administrative unit that neither maintains a school nor contracts for school privileges pursuant to chapter 115 and is unable to find a school administrative unit willing to enroll the student in one of its schools, upon a written request from the superintendent of the school administrative unit where the student resides setting forth the student's circumstances giving rise to the request.
   A. If the commissioner makes a designation under this subsection, the school administrative unit where the student resides shall pay tuition for that student to the receiving school administrative unit as calculated in accordance with this subsection and chapter 219.
   B. If a student subject to a designation under this subsection is receiving special education services, the receiving school administrative unit designated by the commissioner under this subsection is responsible for providing a free, appropriate public education to the student, subject to the provisions of this subsection. The receiving school administrative unit shall invite the school administrative unit where the student resides to participate in individualized education program team meetings for the student, but
the authorized representative of the receiving school administrative unit shall make the decision on any issue on which consensus is not reached. The school administrative unit where the student resides shall, in addition to tuition payable pursuant to chapter 219, pay to the receiving school administrative unit:

(1) Special education tuition;
(2) Any costs not included in the computation of special education tuition directly related to the student's special education program; and
(3) Any costs associated with due process proceedings in connection with the student's special education program.

C. Once the commissioner makes a designation under this subsection, the student must be enrolled in the receiving school administrative unit. If dissatisfied with the commissioner's decision, the superintendent of the school administrative unit where the student resides or the superintendent of the receiving school administrative unit may, within 10 calendar days of the commissioner's decision, request that the state board review the designation. The state board shall review the commissioner's determinations and communicate with the commissioner, the superintendents and the parent of the student. The state board may approve or disapprove the designation. The state board shall make a decision within 45 calendar days of receiving the request and shall provide to the commissioner, the superintendents and the parent of the student a written decision describing the basis of the state board's determination. The state board's decision is final and binding.

20-A § 4008. Privileged communications.

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.
   A. “Client” means a person who has actively sought or is in the process of seeking professional help from a school counselor or school social worker.
   B. “School counselor” means a person who is employed as a school counselor in a school setting and who:
      (1) Is certified as a school counselor by the department; or
      (2) Possesses a minimum of a master's degree in an approved program in guidance and counseling.
   C. “School social worker” means a person who is employed as a school social worker in a school setting and who:
      (1) Is licensed as a social worker by the State Board of Social Worker Licensure; or
      (2) Possesses a bachelor's degree and has been granted a conditional license from the State Board of Social Worker Licensure.

2. Privileged communication. A school counselor or school social worker may not be required, except as provided by this section, to divulge or release information gathered during a counseling relation with a client or with the parent, guardian or a person or agency having legal custody of a minor client. A counseling relation and the information resulting from it shall be kept confidential consistent with the professional obligations of the counselor or social worker.

3. Exceptions. This section shall not apply to the extent that disclosure of information is necessary:
   A. To comply with Title 22, chapter 1071; and
   B. To report to an appropriate authority or to take appropriate emergency measure when:
      (1) The client's condition requires others to assume responsibility for
the client; or
(2) There is clear and imminent danger to the client or others.

20-A § 13004. List of persons certified; records confidential

1. Records. The commissioner shall keep a list of certified teachers. This list shall be a public record. The commissioner shall send copies of the list to school boards and superintendents on their request.

2. Records confidential. Transcripts, recommendations and other documents submitted in support of an application for certification or collected by the department for verification of certification records and maintained in the office of the commissioner shall be confidential. They may only be made available to the following:
   A. School boards and superintendents;
   B. Authorized personnel of the department in fulfilling assigned duties; and
   C. Individuals and their representatives who request to examine their own records.

2-A. Confidentiality. The provisions of this subsection govern confidentiality. For the purposes of this subsection, the term “certification” means certification, authorization or approval under this chapter and chapter 502.
   A. Complaints and responses pursuant to section 13020 and any other information or materials that may result in an action to deny, revoke or suspend certification are confidential, except when submitted in court proceedings to revoke or suspend certification.
   B. Except for information designated confidential under section 6101 or section 6103, information designated confidential under paragraph A may be released or used by the department as necessary to:
      (1) Complete its own investigations;
      (2) Provide information to a national association of state directors of teacher education and certification to which the State belongs;
      (3) Assist other public authorities to investigate the same teacher’s certification in another jurisdiction;
      (4) Report or prevent criminal misconduct or assist law enforcement agencies in their investigations; or
      (5) Report child abuse or neglect under Title 22, section 4011-A.
   C. The department may publish and release as public information statistical summaries of complaints and dispositions as long as the release of such information does not jeopardize the confidentiality of individually identifiable information.
   D. Notwithstanding paragraph A, the following information concerning final written decisions relating to disciplinary action taken by the commissioner against a person holding certification is a public record:
      (1) The name of the person;
      (2) The type of action taken, consisting of denial, revocation, suspension, surrender or reinstatement;
      (3) The grounds for the action taken;
      (4) The relevant dates of the action;
      (5) The type of certification and endorsements held, including relevant dates;
      (6) The schools where the person was or is employed; and
      (7) The dates of employment.

2-B. Teacher addresses. Home addresses held by the department of teachers certified to teach in the State may be made available in response to the following:
   A. Formal request from a commissioner or chief executive officer of other
state agencies, including the judicial branch when access to that information may be necessary in carrying out an official function; and
B. Formal request by majority vote of any joint standing committee of the Legislature when access to that information may be necessary in carrying out an official function.

The use of these addresses by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished and by the law under which they may be furnished. It shall be unlawful for any person to solicit, disclose, receive, make use of or authorize, knowingly permit, participate in or acquiesce in the use of, any list of or names of, or any information concerning, persons applying for or receiving assistance, directly or indirectly, derived from the records, papers, files or communications of the State or subdivisions or agencies, or acquired in the course of the performance of official duties. Any person violating this subsection shall be punished by a fine of not more than $500 or by imprisonment for not more than 11 months, or by both.

3. Duplication costs. Individuals requesting copies of their records shall bear the costs of copying them.

4. Rules. The state board may adopt rules to carry out this section.

22 § 4008. Records; confidentiality; disclosure.

1. Confidentiality of records and information. All department records that contain personally identifying information and are created or obtained in connection with the department's child protective activities and activities related to a child while in the care or custody of the department, and all information contained in those records, are confidential and subject to release only under the conditions of subsections 2 and 3.

Within the department, the records are available only to and may be used only by appropriate departmental personnel and legal counsel for the department in carrying out their functions.

Any person who receives department records or information from the department may use the records or information only for the purposes for which that release was intended.

2. Optional disclosure of records. The department may disclose relevant information in the records to the following persons:
   A. An agency or person investigating or participating on a team investigating a report of child abuse or neglect when the investigation or participation is authorized by law or by an agreement with the department;
   A-1. A law enforcement agency, to the extent necessary for reporting, investigating and prosecuting an alleged crime, the victim of which is a department employee, an employee of the Attorney General’s Office, an employee of any court or court system, a person mandated to report suspected abuse or neglect, a person who has made a report to the department, a person who has provided information to the department or an attorney, guardian ad litem, party, participant, witness or prospective witness in a child protection proceeding
   B.
   C. A physician treating a child whom he reasonably suspects may be abused or neglected;
   D. A child named in a record who is reported to be abused or neglected, or the child's parent or custodian, or the subject of the report, with protection for identity of reporters and other persons when appropriate;
D-1. A parent, custodian or caretaker of a child when the department believes the child may be at risk of harm from the person who is the subject of the records or information, with protection for identity of reporters and other persons when appropriate;
D-2. A party to a child protection proceeding, when the records or information is relevant to the proceeding, with protection for identity of reporters and other persons when appropriate;
E. A person having the legal responsibility or authorization to evaluate, treat, educate, care for or supervise a child, parent or custodian who is the subject of a record, or a member of a panel appointed by the department to review child deaths and serious injuries, or a member of the Domestic Abuse Homicide Review Panel established under Title 19-A, section 4013, subsection 4. This includes a member of a treatment team or group convened to plan for or treat a child or family that is the subject of a record. This may also include a member of a support team for foster parents, if that team has been reviewed and approved by the department;
E-1. F. Any person engaged in bona fide research, provided that no personally identifying information is made available, unless it is essential to the researcher and the commissioner or the commissioner’s designee gives prior approval. If the researcher desires to contact a subject of a record, the subject’s consent shall be obtained by the department prior to the contact; 
G. Any agency or department involved in licensing or approving homes for, or the placement of, children or dependent adults, with protection for identity of reporters and other persons when appropriate; [1989, c. 270, §3 (RPR).]
H. Persons and organizations pursuant to Title 5, section 9057, subsection 6, and pursuant to chapter 857;
I. The representative designated to provide child welfare services by the tribe of an Indian child as defined by the federal Indian Child Welfare Act, 25 United States Code, Section 1903, or a representative designated to provide child welfare services by an Indian tribe of Canada;
J. A person making a report of suspected abuse or neglect. The department may only disclose that it has not accepted the report for investigation, unless other disclosure provisions of this section apply;
K. The local animal control officer or the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For purposes of this paragraph, “cruelty, abuse or neglect” has the same meaning as provided in Title 34-B, section 1901, subsection 1 , paragraph B;
L. A person, organization, employer or agency for the purpose of carrying out background or employment-related screening of an individual who is or may be engaged in:
   (1) Child-related activities or employment; or
   (2) Activities or employment relating to adults with intellectual disabilities, autism, related conditions as set out in 42 Code of Federal Regulations, Section 435.1010 or acquired brain injury; and
M. The personal representative of the estate of a child named in a record who is reported to be abused or neglected.

3. Mandatory disclosure of records. The department shall disclose relevant information in the records to the following persons:
   A. The guardian ad litem of a child, appointed pursuant to section 4005, subsection 1;
   A-1. The court-appointed guardian ad litem or attorney of a child who is the subject of a court proceeding involving parental rights and responsibilities, grandparent visitation, custody, guardianship or involuntary commitment.
The access of the guardian ad litem or attorney to the records or information under this paragraph is limited to reviewing the records in the offices of the department. Any other use of the information or records during the proceeding in which the guardian ad litem or attorney is appointed is governed by paragraph B;
B. A court on its finding that access to those records may be necessary for the determination of any issue before the court or a court requesting a home study from the department pursuant to Title 18-A, section 9-304 or Title 19-A, section 905. Access to such a report or record is limited to counsel of record unless otherwise ordered by the court. Access to actual reports or records is limited to in camera inspection, unless the court determines that public disclosure of the information is necessary for the resolution of an issue pending before the court;
C. A grand jury on its determination that access to those records is necessary in the conduct of its official business;
D. An appropriate state executive or legislative official with responsibility for child protection services, provided that no personally identifying information may be made available unless necessary to that official's functions;
E. The protection and advocacy agency for persons with disabilities, as designated pursuant to Title 5, section 19502, in connection with investigations conducted in accordance with Title 5, chapter 511. The determination of what information and records are relevant to the investigation must be made by agreement between the department and the agency;
F. The Commissioner of Education when the information concerns teachers and other professional personnel issued certificates under Title 20-A, persons employed by schools approved pursuant to Title 20-A or any employees of schools operated by the Department of Education;
G. The prospective adoptive parents. Prior to a child being placed for the purpose of adoption, the department shall comply with the requirements of Title 18-A, section 9-304, subsection (b) and section 8205;
H. Upon written request, a person having the legal authorization to evaluate or treat a child, parent or custodian who is the subject of a record. This includes a member of a treatment team or group convened to plan for or treat a child or family that is the subject of a record;
I. Any government entity that needs such information in order to carry out its responsibilities under law to protect children from abuse and neglect. For purposes of this paragraph, "government entity" means a federal entity, a state entity of any state, a local government entity of any state or locality or an agent of a federal, state or local government entity;
J. To a juvenile court when the child who is the subject of the records has been brought before the court pursuant to Title 15, Part 6;
K. A relative or other person whom the department is investigating for possible custody or placement of the child;
L. To a licensing board of a mandated reporter, in the case of a mandated reporter under section 4011-A, subsection 1 who appears from the record or relevant circumstances to have failed to make a required report. Any information disclosed by the department personally identifying a licensee's client or patient remains confidential and may be used only in a proceeding as provided by Title 5, section 9057, subsection 6; and
M. Law enforcement authorities for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to a national information clearinghouse for missing and exploited children operated pursuant to 42 United States Code, Section 5773 (b). Information disclosed pursuant to this paragraph is limited to information on missing or abducted children or youth that is required to be disclosed pursuant to 42 United States Code, Section 671 (a)(35)(B).
3-A. Confidentiality. The proceedings and records of the child death and serious injury review panel created in accordance with section 4004, subsection 1, paragraph E are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commissioner shall disclose conclusions of the review panel upon request, but may not disclose data that is otherwise classified as confidential.

4. Unlawful dissemination; penalty. A person is guilty of unlawful dissemination if he knowingly disseminates records which are determined confidential by this section, in violation of the mandatory or optional disclosure provisions of this section. Unlawful dissemination is a Class E crime, which, notwithstanding Title 17-A, section 1252, subsection 2, paragraph E, is punishable by a fine of not more than $500 or by imprisonment for not more than 30 days.

5. Retention of unsubstantiated child protection services records. Except as provided in this subsection, the department shall retain unsubstantiated child protective services case records for no more than 18 months following a finding of unsubstantiation and then expunge unsubstantiated case records from all departmental files or archives unless a new referral has been received within the 18-month retention period. An expunged record or unsubstantiated record that should have been expunged under this subsection may not be used for any purpose, including admission into evidence in any administrative or judicial proceeding. Unsubstantiated child protective services records of persons who were eligible for Medicaid services under the federal Social Security Act, Title XIX, at the time of the investigation may be retained for up to 5 years for the sole purpose of state and federal audits of the Medicaid program. Unsubstantiated child protective services case records retained for audit purposes pursuant to this subsection must be stored separately from other child protective services records and may not be used for any other purpose.

6. Disclosing information; establishment of fees; rules. The department may charge fees for searching and disclosing information in its records as provided in this subsection.

A. The department may charge fees for the services listed in paragraph B to any person except the following:

(1) A parent in a child protection proceeding, an attorney who represents a parent in a child protection proceeding or a guardian ad litem in a child protection proceeding when the parent, attorney or guardian ad litem requests the service for the purposes of the child protection proceeding;

(2) An adoptive parent or prospective adoptive parent who requests information in the department's records relating to the child who has been or might be adopted;

(3) A person having the legal authorization to evaluate or treat a child, parent or custodian who is the subject of a record, including a member of a treatment team or group convened to plan for or treat a child or family that is the subject of a record; the information in the record must be requested for the purpose of evaluating or treating the child, parent or custodian who is the subject of the record;

(4) Governmental entities of this State that are not engaged in licensing; and

(5) Governmental entities of any county or municipality of this State that are not engaged in licensing.

An order by a court for disclosure of information in records pursuant to subsection 3, paragraph B must be deemed to have been made by the person requesting that the court order the disclosure.
B. The department may charge fees for the following services:
(1) Searching its records to determine whether a particular person is
named in the records;
(2) Receiving and responding to a request for disclosure of
information in department records, whether or not the department
grants the request; and
(3) Disclosing information in department records.
C. The department shall adopt rules governing requests for the services
listed in paragraph B. Those rules may provide for a mechanism for making
a request, the information required in making a request, the circumstances
under which requests will be granted or denied and any other matter that
the department determines necessary to efficiently respond to requests for
disclosure of information in the records. The rules must establish a list of
specified categories of activities or employment for which the department
may provide information for background or employment-related screening
pursuant to subsection 2, paragraph L. Rules adopted pursuant to this
paragraph are routine technical rules pursuant to Title 5, chapter 375,
subchapter 2-A.
D. The department shall establish a schedule of fees by rule. The schedule of
fees may provide that certain classes of persons are exempt from the fees,
and it may establish different fees for different classes of persons. All fees
collected by the department must be deposited in the General Fund. Rules
adopted pursuant to this paragraph are routine technical rules pursuant to
Title 5, chapter 375, subchapter 2-A.
E. A governmental entity that is engaged in licensing may charge an applicant
for the fees imposed on it by the department for searching and disclosing
information in its records.
F. This subsection may not be construed to permit or require the department
to make a disclosure in any particular case.

7. Appeal of denial of disclosure of records. A parent, legal guardian, custodian
or caretaker of a child who requests disclosure of information in records under
subsection 2 and whose request is denied may request an administrative hearing
to contest the denial of disclosure. The request for hearing must be made in writing
to the department. The department shall conduct hearings under this subsection in
accordance with the requirements of Title 5, chapter 375, subchapter 4. The issues
that may be determined at hearing are limited to whether the nondisclosure of
some or all of the information requested is necessary to protect the child or any
other person. The department shall render after hearing without undue delay a
decision as to whether some or all of the information requested should be disclosed.
The decision must be based on the hearing record and rules adopted by the
commissioner. The decision must inform the requester that the requester may file a
petition for judicial review of the decision within 30 days of the date of the decision.
The department shall send a copy of the decision to the requester by regular mail to
the requester’s most recent address of record.

22 § 4008-A. Child abuse and neglect investigations; disclosure.

1. Disclosure permitted. Notwithstanding any other provision of law, the
commissioner, with the advice of the Attorney General, may disclose information as
set forth in this section regarding the abuse or neglect of a child and the investigation
of and any services related to the abuse and neglect if the commissioner determines
that such disclosure is not contrary to the best interests of the child, the child’s
siblings or other children in the household and any one of the following factors is
present:
   A. The alleged perpetrator of the abuse or neglect has been charged with
      committing a crime related to the allegation of abuse or neglect maintained
by the department;
B. A judge, a law enforcement agency official, a district attorney or another state or local investigative agency or official has publicly disclosed, as required by law in the performance of official duties, the provision of child welfare services or the investigation by child welfare services of the abuse or neglect of the child; or
C. An individual who is the parent, custodian or guardian of the victim or a child victim over 14 years of age has made a prior knowing, voluntary, public disclosure.
D.

1-A. Disclosure required. The commissioner shall make public disclosure of the findings or information pursuant to this section in situations where child abuse or neglect results in a child fatality or near fatality, with the exception of circumstances, as determined with the advice of the Attorney General or appropriate district attorney, in which disclosure of child protective information would jeopardize a criminal investigation or proceeding.

2. Information. For the purposes of this section, the following information may be disclosed:
   A. The name and age of the abused or neglected child. If the child is under 13 years of age, the guardian ad litem must agree with the commissioner to release the information. If the child is 13 years of age or older, the guardian ad litem and the child must agree with the commissioner to release the information;
   B. The determination by the local child protective service or the state agency that investigated the alleged abuse or neglect and the findings of the applicable investigating agency upon which the determination was based;
   C. Identification of child protective or other services provided or actions, if any, taken regarding the child and the child's family;
   D. Whether any report of abuse or neglect regarding the child has been substantiated as maintained by the department;
   E. Any actions taken by child protective services in response to reports of abuse or neglect of the child to the department, including, but not limited to, actions taken after every report of abuse or neglect of the child and the dates of the reports;
   F. Whether the child or the child's family has received care or services from the child welfare services prior to every report of abuse or neglect of the child; and
   G. Any extraordinary or pertinent information concerning the circumstances of the abuse or neglect of the child and the investigation of the abuse or neglect, if the commissioner determines the disclosure is consistent with the public interest.

3. Limitations. The following limitations apply to information disclosed pursuant to this section.
   A. Information released prior to the completion of the investigation of a report must be limited to a statement that a report is under investigation.
   B. If there has been a prior disclosure pursuant to paragraph A, information released in a case in which the report has not been substantiated is limited to the statement that the investigation has been completed and the report has not been substantiated.
   C. If the report has been substantiated, information may be released pursuant to subsection 2.
   D. The disclosure may not identify or provide any identifying description of the source of the report, and may not identify the name of the abused or neglected child's siblings, the parent or other person legally responsible for the child or any other members of the child's household, other than the
4. Considerations. In determining pursuant to subsection 1 whether disclosure would be contrary to the best interests of the child, the child's siblings or other children in the household, the commissioner shall consider the privacy of the child and the child's family and the effects that disclosure may have on efforts to reunite and provide services to the family.

5. Other releases and disclosure. Except as it applies directly to the cause of the abuse or neglect of the child, nothing in this section authorizes the release or disclosure of the substance or content of any psychological, psychiatric, therapeutic, clinical or medical reports, evaluations or similar materials or information pertaining to the child or the child's family.

22 § 4009. Penalty for violations

A person who knowingly violates a provision of this chapter commits a civil violation for which a forfeiture of not more than $500 may be adjudged.

22 § 4010. Spiritual treatment.

1. Treatment not considered abuse or neglect. Under subchapters I to VII, a child shall not be considered to be abused or neglected, in jeopardy of health or welfare or in danger of serious harm solely because treatment is by spiritual means by an accredited practitioner of a recognized religious organization.

2. Treatment to be considered if requested. When medical treatment is authorized under this chapter, treatment by spiritual means by an accredited practitioner of a recognized religious organization may also be considered if requested by the child or his parent.

22 § 4011-A. Reporting of suspected abuse or neglect.

1. Required report to department. The following adult persons shall immediately report or cause a report to be made to the department when the person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred:

Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person immediately shall notify either the person in charge of the institution, agency or facility or a designated agent who then shall cause a report to be made. The staff also may make a report directly to the department.

A. When acting in a professional capacity:
   (1) An allopathic or osteopathic physician, resident or intern;
   (2) An emergency medical services person;
   (3) A medical examiner;
   (4) A physician's assistant;
   (5) A dentist;
   (6) A dental hygienist;
   (7) A dental assistant;
   (8) A chiropractor;
   (9) A podiatrist;
(10) A registered or licensed practical nurse;
(11) A teacher;
(12) A guidance counselor;
(13) A school official;
(14) A youth camp administrator or counselor;
(15) A social worker;
(16) A court-appointed special advocate or guardian ad litem for the child;
(17) A homemaker;
(18) A home health aide;
(19) A medical or social service worker;
(20) A psychologist;
(21) Child care personnel;
(22) A mental health professional;
(23) A law enforcement official;
(24) A state or municipal fire inspector;
(25) A municipal code enforcement official;
(26) A commercial film and photographic print processor;
(27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
(28) A chair of a professional licensing board that has jurisdiction over mandated reporters;
(29) A humane agent employed by the Department of Agriculture, Conservation and Forestry;
(30) A sexual assault counselor;
(31) A family or domestic violence victim advocate; and
(32) A school bus driver or school bus attendant;

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the child, regardless of whether the person receives compensation; and
C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation.

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected.

2. Required report to district attorney. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child or that a suspicious child death has been caused by a person not responsible for the child, the person immediately shall report or cause a report to be made to the appropriate district attorney's office.

3. Optional report. Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that there has been a suspicious child death.

4. Mental health treatment. When a licensed mental health professional is required to report under subsection 1 and the knowledge or reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred comes from treatment of a person responsible for the abuse, neglect or death, the licensed mental health professional shall report to the department in
accordance with subsection 1 and under the following conditions.
A. The department shall consult with the licensed mental health professional who has made the report and shall attempt to reach agreement with the mental health professional as to how the report is to be pursued. If agreement is not reached, the licensed mental health professional may request a meeting under paragraph B.
B. Upon the request of the licensed mental health professional who has made the report, after the department has completed its investigation of the report under section 4021 or has received a preliminary protection order under section 4034 and when the department plans to initiate or has initiated a jeopardy order under section 4035 or plans to refer or has referred the report to law enforcement officials, the department shall convene at least one meeting of the licensed mental health professional who made the report, at least one representative from the department, a licensed mental health professional with expertise in child abuse or neglect and a representative of the district attorney's office having jurisdiction over the report, unless that office indicates that prosecution is unlikely.
C. The persons meeting under paragraph B shall make recommendations regarding treatment and prosecution of the person responsible for the abuse, neglect or death. The persons making the recommendations shall take into account the nature, extent and severity of abuse or neglect, the safety of the child and the community and needs of the child and other family members for treatment of the effects of the abuse or neglect and the willingness of the person responsible for the abuse, neglect or death to engage in treatment. The persons making the recommendations may review or revise these recommendations at their discretion.
The intent of this subsection is to encourage offenders to seek and effectively utilize treatment and, at the same time, provide any necessary protection and treatment for the child and other family members.

5. Photographs of visible trauma. Whenever a person is required to report as a staff member of a law enforcement agency or a hospital, that person shall make reasonable efforts to take, or cause to be taken, color photographs of any areas of trauma visible on a child.
A. The taking of photographs must be done with minimal trauma to the child and in a manner consistent with professional standards. The parent's or custodian's consent to the taking of photographs is not required.
B. Photographs must be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for child welfare services.
C. The person shall notify the department as soon as possible if that person is unable to take, or cause to be taken, these photographs.
D. Designated agents of the department may take photographs of any subject matter when necessary and relevant to an investigation of a report of suspected abuse or neglect or to subsequent child protection proceedings.

6. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B. A reporter under this subsection may assert immunity from civil and criminal liability under Title 34-B, chapter 1, subchapter 6.
7. Children under 6 months of age or otherwise nonambulatory. A person required to make a report under subsection 1 shall report to the department if a child who is under 6 months of age or otherwise nonambulatory exhibits evidence of the following:
   A. Fracture of a bone;
   B. Substantial bruising or multiple bruises;
   C. Subdural hematoma;
   D. Burns;
   E. Poisoning; or
   F. Injury resulting in substantial bleeding, soft tissue swelling or impairment of an organ.

This subsection does not require the reporting of injuries occurring as a result of the delivery of a child attended by a licensed medical practitioner or the reporting of burns or other injuries occurring as a result of medical treatment following the delivery of the child while the child remains hospitalized following the delivery.

8. Required report of residence with nonfamily. A person required to make a report under subsection 1 shall report to the department if the person knows or has reasonable cause to suspect that a child is not living with the child's family. Although a report may be made at any time, a report must be made immediately if there is reason to suspect that a child has been living with someone other than the child's family for more than 6 months or if there is reason to suspect that a child has been living with someone other than the child's family for more than 12 months pursuant to a power of attorney or other nonjudicial authorization.

9. Training requirement. A person required to make a report under subsection 1 shall complete at least once every 4 years mandated reporter training approved by the department.

22 § 4011-B. Reporting of prenatal exposure to drugs.

1. Reporting of infants with prenatal exposure to drugs. A health care provider involved in the delivery or care of an infant who the provider knows or has reasonable cause to suspect has been born affected by illegal substance abuse or is suffering from withdrawal symptoms resulting from prenatal drug exposure, whether or not the prenatal exposure was to legal or illegal drugs, shall notify the department of that condition in the infant. The report required by this subsection must be made in the same manner as reports of abuse or neglect required by this subchapter.
   A. This section, and any notification made pursuant to this section, may not be construed to establish a definition of “abuse” or “neglect.”
   B. This section, and any notification made pursuant to this section, may not be construed to require prosecution for any illegal action, including, but not limited to, the act of exposing a fetus to drugs or other substances.

2. Definition. For purposes of this section, “health care provider” means a person described in section 4011-A, subsection 1, paragraph A, subparagraphs (1) to (10), (15), (17) to (20) or (22) or any person who assists in the delivery or birth of a child for compensation, including, but not limited to, a midwife.

22 § 4012. Reporting procedures.

1. Immediate report. Reports regarding abuse or neglect must be made immediately by telephone to the department and must be followed by a written report within 48 hours if requested by the department.
Hospitals, medical personnel and law enforcement personnel may submit emergency reports through password-protected e-mail submissions. A faxed report may also be accepted when preceded by a telephone call informing the department of the incoming fax transmission.

2. Information required. The reports shall include the following information if within the knowledge of the person reporting:
   A. The name and address of the child and the persons responsible for his care or custody;
   B. The child's age and sex;
   C. The nature and extent of abuse or neglect, including a description of injuries and any explanation given for them;
   D. A description of sexual abuse or exploitation;
   E. Family composition and evidence of prior abuse or neglect of the child or his siblings;
   F. The source of the report, the person making the report, his occupation and where he can be contacted;
   G. The actions taken by the reporting source, including a description of photographs or x rays taken; and
   H. Any other information that the person making the report believes may be helpful.

22 § 4014. Immunity from liability.

1. Reporting and proceedings. A person, including an agent of the department, participating in good faith in reporting under this subchapter or participating in a related child protection investigation or proceeding, including, but not limited to, a multidisciplinary team, out-of-home abuse investigating team or other investigating or treatment team, is immune from any criminal or civil liability for the act of reporting or participating in the investigation or proceeding. Good faith does not include instances when a false report is made and the person knows the report is false. Nothing in this section may be construed to bar criminal or civil action regarding perjury or regarding the abuse or neglect which led to a report, investigation or proceeding.

2. Photographs and x rays. A person participating in good faith in taking photographs or x rays under this subchapter is immune from civil liability for invasion of privacy that might otherwise result from these actions.

3. Presumption of good faith. In a proceeding regarding immunity from liability, there shall be a rebuttable presumption of good faith.

22 § 4015. Privileged or confidential communications.

The husband-wife and physician and psychotherapist-patient privileges under the Maine Rules of Evidence and the confidential quality of communication under Title 16, section 53-B; Title 20-A, sections 4008 and 6001, to the extent allowed by applicable federal law; Title 24-A, section 4224; Title 32, sections 1092-A and 7005; and Title 34-B, section 1207, are abrogated in relation to required reporting, cooperating with the department or a guardian ad litem in an investigation or other child protective activity or giving evidence in a child protection proceeding. Information released to the department pursuant to this section must be kept confidential and may not be disclosed by the department except as provided in section 4008.

Statements made to a licensed mental health professional in the course of counseling, therapy or evaluation where the privilege is abrogated under this section
may not be used against the client in a criminal proceeding. Nothing in this section may limit any responsibilities of the professional pursuant to this Act.

22 § 4016. Confidentiality of employee records.

Notwithstanding Title 5, section 554, subsection 2, paragraph E or any other provision of law, the confidentiality of employee records is abrogated in relation to required reporting, cooperating with the department or guardian ad litem in an investigation or other child protective activity or giving evidence in a child protective proceeding.

22 § 4017. Discrimination.

No person may be discriminated against by any employer in any way for participating in good faith in reporting under this subchapter or in a related child protection investigation or proceeding.
§ 1-202. [Effective until 9/30/2019] Confidentiality of information - Child abuse and neglect reports and records [Amendment subject to abrogation].

Md. Code Ann., HS § 1-202

(a) Except as otherwise provided in Title 5, Subtitles 7 and 12 of the Family Law Article, § 1–203 of this subtitle, and this section, a person may not disclose a report or record concerning child abuse or neglect.

(b) A report or record concerning child abuse or neglect shall be disclosed:
   (1) under a court order;
   (2) under an order of an administrative law judge, if:
       (i) the request for disclosure concerns a case pending before the Office of Administrative Hearings; and
       (ii) provisions are made to comply with other State or federal confidentiality laws and to protect the identity of the reporter or other person whose life or safety is likely to be endangered by the disclosure;
   (3) to the Division of Parole and Probation in the Department of Public Safety and Correctional Services if, as a result of a report or investigation of suspected child abuse or neglect, the local department of social services has reason to believe that an individual who lives in or has a regular presence in a child's home is registered under Title 11, Subtitle 7 of the Criminal Procedure Article based on the commission of an offense against a child; or
   (4) on a written request, to the Baltimore City Health Department's Office of Youth Violence Prevention:
       (i) if the Baltimore City Health Department's Office of Youth Violence Prevention is providing treatment or care to a child who is the subject of a report of child abuse or neglect, for a purpose relevant to the provision of the treatment or care;
       (ii) if the record or report concerns a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or
       (iii) if the record or report concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City, for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

(c) A report or record concerning child abuse or neglect:
   (1) may be disclosed on request to:
       (i) personnel of the Social Services Administration or a local department of social services, law enforcement personnel, and members of multidisciplinary case consultation teams, including an addiction specialist as defined in Title 5, Subtitle 12 of the Family Law Article or § 5–314 of this article, who are investigating a report of known or suspected child abuse or neglect or providing services to or assessing a child or family that is the subject of the report;
       (ii) local or State officials responsible for the administration of child protective services, or child care, foster care, or adoption licensing, approval, or regulations, as necessary to carry out their official functions;
       (iii) the State Council on Child Abuse and Neglect or its designee, the State Citizens Review Board for Children or its designee, or a child fatality review team, as necessary to carry out their official functions;
       (iv) a person who is the alleged abuser or neglector, if that person is responsible for the child's welfare and provisions are made for the protection of the identity of the reporter or any other person who is the subject of the report.
whose life or safety is likely to be endangered by disclosing the information;
(v) subject to the provisions of subsection (b)(4) of this section, a licensed practitioner who, or an agency, institution, or program that, is providing treatment or care to a child who is the subject of a report of child abuse or neglect for a purpose relevant to the treatment or care;
(vi) a parent or other person who has permanent or temporary care and custody of the child, if provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information;
(vii)
1. the appropriate public school superintendent or the principal or equivalent employee of a nonpublic school that holds a certificate of approval from the State or is registered with the State Department of Education to carry out appropriate personnel or administrative actions following a report of suspected child abuse involving a student committed by:
   A. a public school employee in that school system;
   B. an employee of that nonpublic school;
   C. an independent contractor who supervises or works directly with students in that school system or that nonpublic school; or
   D. an employee of an independent contractor, including a bus driver or bus assistant, who supervises or works directly with students in that school system or that nonpublic school; and
2. if the report concerns suspected child abuse involving a student committed by an employee, independent contractor, or employee of an independent contractor described in item 1 of this item and employed by a nonpublic school under the jurisdiction of the superintendent of schools for the Archdiocese of Baltimore, the Archdiocese of Washington, or the Catholic Diocese of Wilmington, the appropriate superintendent of schools;
(viii) the director of a licensed child care facility or licensed child placement agency to carry out appropriate personnel actions following a report of suspected child abuse or neglect alleged to have been committed by an employee of the facility or agency and involving a child who is currently or was previously under the care of that facility or agency;
(ix) the Juvenile Justice Monitoring Unit of the Office of the Attorney General established under Title 6, Subtitle 4 of the State Government Article;
(x) subject to subsection (d) of this section, a licensed practitioner of a hospital or birthing center to make discharge decisions concerning a child, when the practitioner suspects that the child may be in danger after discharge based on the practitioner's observation of the behavior of the child's parents or immediate family members; or
(xi) the president of a Maryland public institution of higher education, as defined in § 10–101 of the Education Article, or the Chancellor of the University System of Maryland, to carry out appropriate personnel or administrative actions following a report of child abuse committed:
   1. by an employee of the institution who has on-campus contact with children; or
   2. by a contractor, an employee of a contractor, or a
volunteer of the institution who has on-campus contact
with children; and
(2) may be disclosed by the Department of Human Services to the operator
of a child care center that is required to be licensed or to hold a letter of
compliance under Title 5, Subtitle 5, Part VII of the Family Law Article or to
a family child care provider who is required to be registered under Title 5,
Subtitle 5, Part V of the Family Law Article, to determine the suitability of an
individual for employment in the child care center or family child care home.

(d) Only the following information concerning child abuse and neglect may be
disclosed to a practitioner of a hospital or birthing center under subsection (c)(1)(x) of
this section:
(1) whether there is a prior finding of indicated child abuse or neglect by
either parent; and
(2) whether there is an open investigation of child abuse or neglect pending
against either parent.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is
subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

(f) The Baltimore City Health Department's Office of Youth Violence
Prevention shall be liable for the unauthorized release of a report or record
under subsection (b) of this section.
Within 180 days after the Baltimore City Health Department's Office of
Youth Violence Prevention receives a report or record under subsection (b)
of this section, the Baltimore City Health Department shall submit a report
to the Department of Human Services detailing the purposes for which the
record was used.

§ 1-202. [Effective 9/30/2019] Confidentiality of information - Child abuse
and neglect reports and records [Amendment subject to abrogation].
Md. Code Ann., HS § 1-202

(a) Except as otherwise provided in Title 5, Subtitles 7 and 12 of the Family Law Article,
§ 1–203 of this subtitle, and this section, a person may not disclose a report or record
concerning child abuse or neglect.

(b) A report or record concerning child abuse or neglect shall be disclosed:
(1) under a court order;
(2) under an order of an administrative law judge, if:
   (i) the request for disclosure concerns a case pending before the
       Office of Administrative Hearings; and
   (ii) provisions are made to comply with other State or federal
       confidentiality laws and to protect the identity of the reporter or
       other person whose life or safety is likely to be endangered by the
       disclosure; or
(3) to the Division of Parole and Probation in the Department of Public
   Safety and Correctional Services if, as a result of a report or investigation of
   suspected child abuse or neglect, the local department of social services has
   reason to believe that an individual who lives in or has a regular presence
   in a child's home is registered under Title 11, Subtitle 7 of the Criminal
   Procedure Article based on the commission of an offense against a child.

(c) A report or record concerning child abuse or neglect:
(1) may be disclosed on request to:
   (i) personnel of the Social Services Administration or a local
       department of social services, law enforcement personnel, and
members of multidisciplinary case consultation teams, including an addiction specialist as defined in Title 5, Subtitle 12 of the Family Law Article or § 5–314 of this article, who are investigating a report of known or suspected child abuse or neglect or providing services to or assessing a child or family that is the subject of the report; 
(ii) local or State officials responsible for the administration of child protective services, or child care, foster care, or adoption licensing, approval, or regulations, as necessary to carry out their official functions; 
(iii) the State Council on Child Abuse and Neglect or its designee, the State Citizens Review Board for Children or its designee, or a child fatality review team, as necessary to carry out their official functions; 
(iv) a person who is the alleged abuser or neglector, if that person is responsible for the child’s welfare and provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information; 
(v) a licensed practitioner who, or an agency, institution, or program that, is providing treatment or care to a child who is the subject of a report of child abuse or neglect for a purpose relevant to the treatment or care; 
(vi) a parent or other person who has permanent or temporary care and custody of the child, if provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information; 
(vii) 
1. the appropriate public school superintendent or the principal or equivalent employee of a nonpublic school that holds a certificate of approval from the State or is registered with the State Department of Education to carry out appropriate personnel or administrative actions following a report of suspected child abuse involving a student committed by:
   A. a public school employee in that school system; 
   B. an employee of that nonpublic school; 
   C. an independent contractor who supervises or works directly with students in that school system or that nonpublic school; or 
   D. an employee of an independent contractor, including a bus driver or bus assistant, who supervises or works directly with students in that school system or that nonpublic school; and 
2. if the report concerns suspected child abuse involving a student committed by an employee, independent contractor, or employee of an independent contractor described in item 1 of this item and employed by a nonpublic school under the jurisdiction of the superintendent of schools for the Archdiocese of Baltimore, the Archdiocese of Washington, or the Catholic Diocese of Wilmington, the appropriate superintendent of schools; 
(viii) the director of a licensed child care facility or licensed child placement agency to carry out appropriate personnel actions following a report of suspected child abuse or neglect alleged to have been committed by an employee of the facility or agency and involving a child who is currently or was previously under the care of that facility or agency; 
(ix) the Juvenile Justice Monitoring Unit of the Office of the Attorney
(x) subject to subsection (d) of this section, a licensed practitioner of a hospital or birthing center to make discharge decisions concerning a child, when the practitioner suspects that the child may be in danger after discharge based on the practitioner's observation of the behavior of the child's parents or immediate family members; or
(xi) the president of a Maryland public institution of higher education, as defined in § 10–101 of the Education Article, or the Chancellor of the University System of Maryland, to carry out appropriate personnel or administrative actions following a report of child abuse committed:

1. by an employee of the institution who has on-campus contact with children; or
2. by a contractor, an employee of a contractor, or a volunteer of the institution who has on-campus contact with children; and

(2) may be disclosed by the Department of Human Services to the operator of a child care center that is required to be licensed or to hold a letter of compliance under Title 5, Subtitle 5, Part VII of the Family Law Article or to a family child care provider who is required to be registered under Title 5, Subtitle 5, Part V of the Family Law Article, to determine the suitability of an individual for employment in the child care center or family child care home.

(d) Only the following information concerning child abuse and neglect may be disclosed to a practitioner of a hospital or birthing center under subsection (c)(1)(x) of this section:

1. whether there is a prior finding of indicated child abuse or neglect by either parent; and
2. whether there is an open investigation of child abuse or neglect pending against either parent.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

§ 5-620. Persons reporting child abuse or neglect.
Md. Code Ann., CJ § 5-620

Any person who in good faith makes or participates in making a report of abuse or neglect under § 5-704, § 5-705, or § 5-705.1 of the Family Law Article or participates in an investigation or a resulting judicial proceeding is immune from any civil liability or criminal penalty that would otherwise result from making or participating in a report of abuse or neglect or participating in an investigation or a resulting judicial proceeding.

§ 5-704. Reports of suspected abuse and neglect.
Md. Code Ann., Fam. Law § 5-704

(a) Notwithstanding any other provision of law, including any law on privileged communications, each health practitioner, police officer, educator, or human service worker, acting in a professional capacity in this State:

1. who has reason to believe that a child has been subjected to abuse or neglect, shall notify the local department or the appropriate law enforcement agency; and
2. if acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, shall immediately notify and give all information required by this section to the head of the institution or the designee of the head.
An individual who notifies the appropriate authorities under subsection (a) of this section shall make:

(i) an oral report, by telephone or direct communication, as soon as possible to the local department or appropriate law enforcement agency; and

(ii) a written report:

1. to the local department not later than 48 hours after the contact, examination, attention, or treatment that caused the individual to believe that the child had been subjected to abuse or neglect; and
2. with a copy to the local State's Attorney.

An agency to which an oral report of suspected abuse or neglect is made under paragraph (1) of this subsection shall immediately notify the other agency.

This paragraph does not prohibit a local department and an appropriate law enforcement agency from agreeing to cooperative arrangements.

Insofar as is reasonably possible, an individual who makes a report under this section shall include in the report the following information:

(1) the name, age, and home address of the child;
(2) the name and home address of the child's parent or other person who is responsible for the child's care;
(3) the whereabouts of the child;
(4) the nature and extent of the abuse or neglect of the child, including any evidence or information available to the reporter concerning possible previous instances of abuse or neglect; and
(5) any other information that would help to determine:

(i) the cause of the suspected abuse or neglect; and

(ii) the identity of any individual responsible for the abuse or neglect.

§ 5-704.1. Permissive reports of suspected abuse and neglect.

Md. Code Ann., Fam. Law § 5-704.1

(a) An individual may notify the local department or the appropriate law enforcement agency if the individual has reason to believe that a parent, guardian, or caregiver of a child allows the child to reside with or be in the regular presence of an individual, other than the child's parent or guardian, who:

(1) is registered under Title 11, Subtitle 7 of the Criminal Procedure Article based on the commission of an offense against a child; and
(2) based on additional information, poses a substantial risk of sexual abuse to the child.

(b) A report under subsection (a) of this section may be oral or in writing.

(2) If acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, an individual who notifies the appropriate authorities under subsection (a) of this section immediately shall notify and give all of the information required by this section to the head of the institution or the designee of the head of the institution.

(c) To the extent reasonably possible, an individual who makes a report under this section shall include in the report the following information:

(1) the name, age, and home address of the child;
(2) the name and home address of the child's parent or other person who is responsible for the child's care;
(3) the whereabouts of the child;
(4) the nature and extent of the substantial risk of sexual abuse of the child, including any evidence or information available to the reporter concerning possible previous instances of sexual abuse; and
(5) any other information that would help to determine:
   (i) the cause of the substantial risk of sexual abuse; and
   (ii) the identity of any individual responsible for the substantial risk of sexual abuse.

§ 5-704.2. Reports of babies born exposed to substances.
Md. Code Ann., Fam. Law § 5-704.2

(a)
(1) In this section the following words have the meanings indicated.
(2) "Controlled drug" means a controlled dangerous substance included in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V under Title 5, Subtitle 4 of the Criminal Law Article.
(3) "Health care practitioner" has the meaning stated in § 1–301 of the Health Occupations Article.
(4) "Newborn" means a child under the age of 30 days who is born or who receives care in the State.

(b) For purposes of this section, a newborn is “substance–exposed” if:
   (1) the newborn:
      (i) displays a positive toxicology screen for a controlled drug as evidenced by any appropriate test after birth;
      (ii) displays the effects of controlled drug use or symptoms of withdrawal resulting from prenatal controlled drug exposure as determined by medical personnel; or
      (iii) displays the effects of a fetal alcohol spectrum disorder; or
   (2) the newborn's mother had a positive toxicology screen for a controlled drug at the time of delivery.

(c) Except as provided in subsections (d) and (e) of this section, a health care practitioner involved in the delivery or care of a substance–exposed newborn shall:
   (1) make an oral report to the local department as soon as possible; and
   (2) make a written report to the local department not later than 48 hours after the contact, examination, attention, treatment, or testing that prompted the report.

(d) In the case of a substance–exposed newborn in a hospital or birthing center, a health care practitioner shall notify and provide the information required under this section to the head of the institution or the designee of the head.

(e) A health care practitioner is not required to make a report under this section if the health care practitioner:
   (1) has knowledge that the head of an institution or the designee of the head or another individual at that institution has made a report regarding the substance–exposed newborn;
   (2) has verified that, at the time of delivery, the mother was using a controlled substance as currently prescribed for the mother by a licensed health care practitioner; or
   (3) has verified that, at the time of delivery, the presence of the controlled substance was consistent with a prescribed medical or drug treatment administered to the mother or the newborn.
(f) To the extent known, an individual who makes a report under this section shall include in the report the following information:
   (1) the name, date of birth, and home address of the newborn;
   (2) the names and home addresses of the newborn's parents;
   (3) the nature and extent of the effects of the prenatal alcohol or drug exposure on the newborn;
   (4) the nature and extent of the impact of the prenatal alcohol or drug exposure on the mother's ability to provide proper care and attention to the newborn;
   (5) the nature and extent of the risk of harm to the newborn; and
   (6) any other information that would support a conclusion that the needs of the newborn require a prompt assessment of risk and safety, the development of a plan of safe care for the newborn, and referral of the family for appropriate services.

(g) Within 48 hours after receiving the notification pursuant to subsection (c) of this section, the local department shall:
   (1) see the newborn in person;
   (2) consult with a health care practitioner with knowledge of the newborn's condition and the effects of any prenatal alcohol or drug exposure; and
   (3) attempt to interview the newborn's mother and any other individual responsible for care of the newborn.

(h)
   (1) Promptly after receiving a report under subsection (c) of this section, the local department shall assess the risk of harm to and the safety of the newborn to determine whether any further intervention is necessary.
   (2) If the local department determines that further intervention is necessary, the local department shall:
      (i) develop a plan of safe care for the newborn;
      (ii) assess and refer the family for appropriate services, including alcohol or drug treatment; and
      (iii) as necessary, develop a plan to monitor the safety of the newborn and the family's participation in appropriate services.

(i) A report made under this section does not create a presumption that a child has been or will be abused or neglected.

(j) The Secretary of Human Services shall adopt regulations to implement the provisions of this section.

§ 5-705. Reports of suspected abuse and neglect; other persons.
Md. Code Ann., Fam. Law § 5-705

(a)
   (1) Except as provided in paragraphs (2) and (3) of this subsection, notwithstanding any other provision of law, including a law on privileged communications, a person in this State other than a health practitioner, police officer, or educator or human service worker who has reason to believe that a child has been subjected to abuse or neglect shall notify the local department or the appropriate law enforcement agency.
   (2) A person is not required to provide notice under paragraph (1) of this subsection:
      (i) in violation of the privilege described under § 9–108 of the Courts Article;
      (ii) if the notice would disclose matter communicated in confidence by a client to the client's attorney or other information relating to the representation of the client; or
(iii) in violation of any constitutional right to assistance of counsel.

(3) A minister of the gospel, clergyman, or priest of an established church of any denomination is not required to provide notice under paragraph (1) of this subsection if the notice would disclose matter in relation to any communication described in § 9–111 of the Courts Article and:

(i) the communication was made to the minister, clergyman, or priest in a professional character in the course of discipline enjoined by the church to which the minister, clergyman, or priest belongs; and

(ii) the minister, clergyman, or priest is bound to maintain the confidentiality of that communication under canon law, church doctrine, or practice.

(b) An agency to which a report of suspected abuse or neglect is made under subsection (a) of this section shall immediately notify the other agency.

(2) This subsection does not prohibit a local department and an appropriate law enforcement agency from agreeing to cooperative arrangements.

(c) A report made under subsection (a) of this section may be oral or in writing.

(d) To the extent possible, a report made under subsection (a) of this section shall include the information required by § 5–704(c) of this subtitle.

(2) A report made under subsection (a) of this section shall be regarded as a report within the provisions of this subtitle, whether or not the report contains all of the information required by § 5–704(c) of this subtitle.

§ 5-705.1. Reporting of abuse or neglect - To local department of social services.

Md. Code Ann., Fam Law § 5-705.1

(a) In this section, “local department” means a department of social services for a county in this State.

(b) The following provisions of this subtitle shall apply to the reporting of suspected abuse or neglect under this section:

(1) except as provided in subsection (a) of this section, the definitions set forth in § 5-701 of this subtitle;

(2) the provisions relating to the confidentiality of reports specified in § 5-707(a)(1) and (2) of this subtitle; and

(3) the provisions relating to immunity from civil liability or criminal penalty specified in § 5-708 of this subtitle.

(c) If suspected abuse or neglect is alleged to have occurred outside of this State and the victim is currently a child who lives outside of this State, a person who would be required to report suspected abuse or neglect under the provisions of § 5-704 or § 5-705 of this subtitle shall report the suspected abuse or neglect to any local department in accordance with paragraph (2) of this subsection.

(2) A person described in § 5-704 of this subtitle shall make:

(i) an oral report, by telephone or direct communication, as soon as possible; and

(ii) a written report not later than 48 hours after the contact, examination, attention, or treatment that caused the person to believe that the child had been subjected to abuse or neglect.

(3) A person described in § 5-705 of this subtitle shall make an oral or a
written report.
(4) To the extent possible, a report under this subsection shall include the
information specified in § 5-704(c) of this subtitle.

(d) Promptly after receiving a report of suspected abuse or neglect under this section,
the local department shall forward the report to the appropriate agency outside of
this State that is authorized to receive and investigate reports of suspected abuse or
neglect.

§ 5-705.2. Interfering with report being made.
Md. Code Ann., Fam. Law § 5-705.2

(a) An individual may not intentionally prevent or interfere with the making of a
report of suspected abuse or neglect required by § 5-704 or § 5-705.1(c)(2) of this
subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction
is subject to imprisonment not exceeding 5 years or a fine not exceeding $10,000 or
both.

§ 5-705.4. Knowingly fail to report; complaint to be filed.
Md. Code Ann., Fam. Law § 5-705.4

If an agency participating in an investigation under § 5–706 of this subtitle has
substantial grounds to believe that a person has knowingly failed to report suspected
abuse or neglect as required by § 5–704 of this subtitle, the agency shall:
(1) file a complaint with the appropriate licensing board in accordance with
the provisions of the Health Occupations Article if the person is a health
practitioner;
(2) file a complaint with the appropriate law enforcement agency if the
person is a police officer; or
(3) file a complaint with the county board of education or the appropriate
agency, institution, or licensed facility at which the person is employed if the
person is an educator or a human service worker.

§ 5-706.2. Reporting that child is at substantial risk of sexual abuse.
Md. Code Ann., Fam Law § 5-706.2

(a)

(1) A local department or a law enforcement agency may receive a report
under § 5-704.1 of this subtitle that a child is at substantial risk of sexual
abuse.
(2) If a law enforcement agency receives the report, the law enforcement
agency shall immediately refer the report to the local department.
(3) The Secretary of Human Services shall adopt regulations governing:
   (i) how staff in a local department should elicit information when
       receiving a report under § 5–704.1 of this subtitle; and
   (ii) the definition of substantial risk of sexual abuse as used in this
       subtitle.

(b)

(1) Except as provided in paragraph (3) of this subsection, after confirming
that the allegations in the report regarding the individual’s history
are accurate and that there is specific information that the child is at
substantial risk of sexual abuse, the local department shall make a thorough
investigation to protect the health, safety, and welfare of any child or
children who may be at substantial risk of sexual abuse.
(2) The local department shall conduct the investigation jointly with an appropriate law enforcement agency.

(3) If a subsequent report is received regarding an individual with a history of sexual abuse that alleges substantially the same facts as a report that the local department has previously investigated, the local department may decline to make an investigation of the subsequent report.

(c) Within 5 days after receiving the report, the local department and the appropriate law enforcement agency shall:

(1) see the child in person;
(2) attempt to have an on-site interview with the child’s caregiver and the individual identified in the report as an individual registered under Title 11, Subtitle 7 of the Criminal Procedure Article based on the commission of an offense against a child;
(3) decide on the safety and level of risk to the child, wherever the child is, and of other children in the household; and
(4) decide on the safety and level of risk of other children in the care or custody of the individual identified in the report as an individual registered under Title 11, Subtitle 7 of the Criminal Procedure Article based on the commission of an offense against a child.

(d) To the extent possible, an investigation under this section shall be completed as soon as practicable but not later than 30 days after receipt of the report.

(e) As part of the investigation, the local department shall:

(1) determine whether the child is safe;
(2) determine whether sexual abuse of the child has occurred;
(3) if appropriate, offer services to the family; and
(4) immediately decide whether to file a petition alleging that the child is in need of assistance.

§ 5-707. Confidentiality of reports.
Md. Code Ann., Fam. Law § 5-707

(a) Subject to federal and State law, the Administration shall provide by regulation adopted in accordance with Title 10, Subtitle 1 of the State Government Article:

(1) procedures for protecting the confidentiality of reports and records made in accordance with this subtitle;
(2) conditions under which information may be released;
(3) conditions for determining in cases whether abuse, neglect, or sexual abuse is indicated, ruled out, or unsubstantiated; and
(4) procedures for the appeal processes provided in this subtitle.

(b) (1) The local department shall expunge a report of suspected abuse or neglect and all assessments and investigative findings:

(i) within 5 years after the date of referral if the investigation under § 5–706 of this subtitle concludes that the report is unsubstantiated, and no further reports of abuse or neglect are received during the 5 years; and
(ii) subject to paragraph (2) of this subsection, within 2 years after the date of referral if the report is ruled out, and no further reports of abuse or neglect are received during the 2 years.

(2) If a report is ruled out, the local department may, on good cause shown, immediately expunge the report and all assessments and investigative findings.
§ 5-708. Immunity for participation in judicial proceedings.
Md. Code Ann., Fam. Law § 5-708

Any person who makes or participates in making a report of abuse or neglect under § 5-704, § 5-705, or § 5-705.1 of this subtitle or a report of substantial risk of sexual abuse under § 5-704.1 of this subtitle or participates in an investigation or a resulting judicial proceeding shall have the immunity described under § 5-620 of the Courts and Judicial Proceedings Article from civil liability or criminal penalty.

§ 5-712. Immunity for participation in investigatory activities.
Md. Code Ann., Fam. Law § 5-712

(a)

(1) In this section the following words have the meanings indicated.
(2)
(i) “Emergency medical treatment” means medical or surgical care rendered by a provider in a laboratory, health care facility, or child advocacy center to a child under this section:
   1. to relieve any urgent illness, injury, severe emotional distress, or life-threatening health condition; or
   2. to determine the existence, nature, or extent of any possible abuse or neglect.
(ii) “Emergency medical treatment” includes, if appropriate, the use of telemedicine to achieve a timely expert diagnosis of child abuse or neglect.
(3) “Expert child abuse or neglect care” means the diagnosis or treatment of child abuse or neglect provided by:
   (i) a physician;
   (ii) a multidisciplinary team or multidisciplinary team member;
   (iii) a health care facility; or
   (iv) a staff member of a health care facility who is an expert in the field of abuse and neglect.
(4) “Multidisciplinary team” means a group of professionals with expertise in various professional disciplines who provide consultation, treatment, and planning in cases of child abuse and neglect.
(5) “Provider” includes a physician, multidisciplinary team or multidisciplinary team member, a child advocacy center, a health care facility, or health care facility personnel.

(b) Any provider who is licensed or authorized to practice a profession in this State shall examine or treat any child, with or without the consent of the child's parent, guardian, or custodian, to determine the nature and extent of any abuse or neglect to the child if the child is brought to the provider:
(1) in accordance with a juvenile court order;
(2) by a representative of a local department of social services who states that the representative believes the child is an abused or neglected child;
(3) by a police officer who states that the officer believes that the child is an abused or neglected child; or
(4) by an individual required under § 5-704 of this subtitle to report suspected child abuse or neglect.

(c) If a provider examines a child under subsection (b) of this section and determines that emergency medical treatment or expert child abuse or neglect care is indicated, the provider may treat the child, with or without the consent of the child's parent, guardian, or custodian.

(d) A provider who examines or treats a child under this section shall have the immunity from liability described under § 5-621 of the Courts and Judicial
Proceedings Article.

(e)  

(1) In accordance with regulations adopted by the Secretary of Health, the Maryland Department of Health shall pay for emergency medical treatment charges that are incurred on behalf of a child who is examined or treated under this section. 

(2) The child's parent or guardian is liable to the Maryland Department of Health for the payments and shall take any steps necessary to secure health benefits available for the child from a public or private benefit program. 

(3) The local department shall: 

(i) immediately determine whether a child treated or examined under this section is eligible for medical assistance payments; and 
(ii) secure medical assistance benefits for any eligible child examined or treated under this section.

(f) To the extent possible, the Governor shall include in the annual State budget funds for the payment of emergency medical treatment for children examined or treated under this section.
38 § 3. Medical examiner; duty to report deaths; failure to report.
Mass. Gen. Laws. 38 § 3

It shall be the duty of any person having knowledge of a death which occurs under the circumstances enumerated in this paragraph immediately to notify the office of the chief medical examiner, or the medical examiner designated to the location where the death has occurred, of the known facts concerning the time, place, manner, circumstances and cause of such death:

1. death where criminal violence appears to have taken place, regardless of the time interval between the incident and death, and regardless of whether such violence appears to have been the immediate cause of death, or a contributory factor thereto;
2. death by accident or unintentional injury, regardless of time interval between the incident and death, and regardless of whether such injury appears to have been the immediate cause of death, or a contributory factor thereto;
3. suicide, regardless of the time interval between the incident and death;
4. death under suspicious or unusual circumstances;
5. death following an unlawful abortion;
6. death related to occupational illness or injury;
7. death in custody, in any jail or correctional facility, or in any mental health or mental retardation institution;
8. death where suspicion of abuse of a child, family or household member, elder person or disabled person exists;
9. death due to poison or acute or chronic use of drugs or alcohol;
10. skeletal remains;
11. death associated with diagnostic or therapeutic procedures;
12. sudden death when the decedent was in apparent good health;
13. death in any public or private conveyance;
14. fetal death, as defined in section 202 of chapter 111, where the period of gestation has been 20 weeks or more or where fetal weight is 350 grams or more;
15. death of children under the age of 18 years from any cause;
16. any person found dead;
17. death in an emergency treatment facility, medical walk-in center, child care center or under foster care; or
18. deaths occurring under such other circumstances as the chief medical examiner shall prescribe in regulations promulgated pursuant to chapter 30A.

A physician, police officer, hospital administrator, licensed nurse, department of children and families social worker, or licensed funeral director, within the commonwealth, who, having knowledge of such an unreported death, fails to notify the office of the chief medical examiner of such death shall be punished by a fine of not more than five hundred dollars. Such failure shall also be reported to the appropriate board of registration, where applicable.

119 § 21. Definitions applicable to secs. 22 to 51H.
Mass. Gen. Laws. 119 § 21

Section 21. As used in sections 21 to 51H, inclusive, the following words shall have the following meanings, unless the context clearly otherwise requires:

"51A report", a report filed with the department under section 51A that details suspected child abuse or neglect.

"Advocate", an employee of a governmental or non-governmental organization or entity providing appropriate services, or a similar employee of the department of children and families who has been trained to work and advocate for the needs of sexually exploited
“Appropriate services”, the assessment, planning and care provided by a state agency or non-governmental organization or entity, through congregate care facilities, whether publicly or privately funded, emergency residential assessment services, family-based foster care or the community, including food, clothing, medical care, counseling and appropriate crisis intervention services, provided: (i) that such agency, organization or entity has expertise in providing services to sexually exploited children or children who are otherwise human trafficking victims; and (ii) that such services are provided in accordance with such regulations that the department of children and families may adopt or the policies of such department.

“Child”, a person under the age of 18.

“Child advocate”, the child advocate appointed under chapter 18C.

“Child requiring assistance”, a child between the ages of 6 and 18 who: (i) repeatedly runs away from the home of the child’s parent, legal guardian or custodian; (ii) repeatedly fails to obey the lawful and reasonable commands of the child’s parent, legal guardian or custodian, thereby interfering with their ability to adequately care for and protect the child; (iii) repeatedly fails to obey the lawful and reasonable regulations of the child’s school; (iv) is habitually truant; or (v) is a sexually exploited child.

“Commissioner”, the commissioner of children and families.

“Custody”, the power to: (1) determine a child’s place of abode, medical care and education; (2) control visits to a child; and (3) consent to enlistments, marriages and other contracts otherwise requiring parental consent. If a parent or guardian objects to the carrying out of any power conferred by this paragraph, that parent or guardian may take application to the committing court and the court shall review and make an order on the matter.

“Department”, the department of children and families.

“Family requiring assistance”, a parent, guardian, custodian, sibling and any relative or caretaker responsible for a child requiring assistance.

“Habitually truant”, a school-aged child, not excused from attendance under the lawful and reasonable regulations of such child’s school, who willfully fails to attend school for more than 8 school days in a quarter.

“Mandated reporter”, a person who is: (i) a physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, psychologist, emergency medical technician, dentist, nurse, chiropractor, podiatrist, optometrist, osteopath, allied mental health and human services professional licensed under section 165 of chapter 112, drug and alcoholism counselor, psychiatrist or clinical social worker; (ii) a public or private school teacher, educational administrator, guidance or family counselor, child care worker, person paid to care for or work with a child in any public or private facility, or home or program funded by the commonwealth or licensed under chapter 15D that provides child care or residential services to children or that provides the services of child care resource and referral agencies, voucher management agencies or family child care systems or child care food programs, licensor of the department of early education and care or school attendance officer; (iii) a probation officer, clerk-magistrate of a district court, parole officer, social worker, foster parent, firefighter, police officer; (iv) a priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official
duties on behalf of a church or religious body that are recognized as the duties of a
priest, rabbi, clergy, ordained or licensed minister, leader of any church or religious
body, accredited Christian Science practitioner, or person employed by a church or
religious body to supervise, educate, coach, train or counsel a child on a regular basis;
(v) in charge of a medical or other public or private institution, school or facility or that
person's designated agent; or (vi) the child advocate.

“Parent”, a mother or father, unless another relative has been designated as a parent
as defined in section 1 of chapter 118 for the purposes of receiving benefits from the
department of transitional assistance.

“Relative”, the father or mother of a child; a stepfather, stepmother, stepbrother,
stepsister, or any blood relative of a child, including those of the half blood, except
cousins who are more distantly related than first cousins; any adoptive relative of
equal propinquity to the foregoing; or a spouse of any such persons.

“Serious bodily injury”, bodily injury which involves a substantial risk of death,
extreme physical pain, protracted and obvious disfigurement or protracted loss or
impairment of the function of a bodily member, organ or mental faculty.

“Sexually exploited child”, any person under the age of 18 who has been subjected to
sexual exploitation because such person:
(1) is the victim of the crime of sexual servitude pursuant to section 50 of
chapter 265 or is the victim of the crime of sex trafficking as defined in 22
United States Code 7105;
(2) engages, agrees to engage or offers to engage in sexual conduct with
another person in return for a fee, in violation of subsection (a) of section
53A of chapter 272, or in exchange for food, shelter, clothing, education or
care;
(3) is a victim of the crime, whether or not prosecuted, of inducing a minor
into prostitution under by section 4A of chapter 272; or
(4) engages in common night walking or common streetwalking under
section 53 of chapter 272.

“Young adult”, a person between the ages of 18 and 22.

119 § 51A. Reporting of suspected abuse or neglect; mandated reporters;
collection of physical evidence; penalties; content of reports; liability;
privileged communication.
Mass. Gen. Laws. ch. 119 § 51A

(a) A mandated reporter who, in his professional capacity, has reasonable cause to
believe that a child is suffering physical or emotional injury resulting from: (i) abuse
inflicted upon him which causes harm or substantial risk of harm to the child's health
or welfare, including sexual abuse; (ii) neglect, including malnutrition; (iii) physical
dependence upon an addictive drug at birth, shall immediately communicate with the
department orally and, within 48 hours, shall file a written report with the department
detailing the suspected abuse or neglect; or (iv) being a sexually exploited child; or (v)
being a human trafficking victim as defined by section 20M of chapter 233.

If a mandated reporter is a member of the staff of a medical or other public or private
institution, school or facility, the mandated reporter may instead notify the person
or designated agent in charge of such institution, school or facility who shall become
responsible for notifying the department in the manner required by this section.

A mandated reporter may, in addition to filing a report under this section, contact
local law enforcement authorities or the child advocate about the suspected abuse or
neglect.
(b) For the purpose of reporting under this section, hospital personnel may have photographs taken of the areas of trauma visible on the child without the consent of the child's parents or guardians. These photographs or copies thereof shall be sent to the department with the report.

If hospital personnel collect physical evidence of abuse or neglect of the child, the local district attorney, local law enforcement authorities, and the department shall be immediately notified. The physical evidence shall be processed immediately so that the department may make an informed determination within the time limits in section 51B. If there is a delay in processing, the department shall seek a waiver under subsection (d) of section 51B.

(c) Notwithstanding subsection (g), whoever violates this section shall be punished by a fine of not more than $1,000. Whoever knowingly and willfully files a frivolous report of child abuse or neglect under this section shall be punished by: (i) a fine of not more than $2,000 for the first offense; (ii) imprisonment in a house of correction for not more than 6 months and a fine of not more than $2,000 for the second offense; and (iii) imprisonment in a house of correction for not more than 21/2 years and a fine of not more than $2,000 for the third and subsequent offenses.

Any mandated reporter who has knowledge of child abuse or neglect that resulted in serious bodily injury to or death of a child and willfully fails to report such abuse or neglect shall be punished by a fine of up to $5,000 or imprisonment in the house of correction for not more than 21/2 years or by both such fine and imprisonment; and, upon a guilty finding or a continuance without a finding, the court shall notify any appropriate professional licensing authority of the mandated reporter's violation of this paragraph.

(d) A report filed under this section shall contain: (i) the names and addresses of the child and the child's parents or other person responsible for the child's care, if known; (ii) the child's age; (iii) the child's sex; (iv) the nature and extent of the child's injuries, abuse, maltreatment or neglect, including any evidence of prior injuries, abuse, maltreatment or neglect; (v) the circumstances under which the person required to report first became aware of the child's injuries, abuse, maltreatment or neglect; (vi) whatever action, if any, was taken to treat, shelter or otherwise assist the child; (vii) the name of the person or persons making the report; (viii) any other information that the person reporting believes might be helpful in establishing the cause of the injuries; (ix) the identity of the person or persons responsible for the neglect or injuries; and (x) other information required by the department.

(e) A mandated reporter who has reasonable cause to believe that a child has died as a result of any of the conditions listed in subsection (a) shall report the death to the district attorney for the county in which the death occurred and the office of the chief medical examiner as required by clause (16) of section 3 of chapter 38. Any person who fails to file a report under this subsection shall be punished by a fine of not more than $1,000.

(f) Any person may file a report under this section if that person has reasonable cause to believe that a child is suffering from or has died as a result of abuse or neglect.

(g) No mandated reporter shall be liable in any civil or criminal action for filing a report under this section or for contacting local law enforcement authorities or the child advocate, if the report or contact was made in good faith, was not frivolous, and the reporter did not cause the abuse or neglect. No other person filing a report under this section shall be liable in any civil or criminal action by reason of the report if it was made in good faith and if that person did not perpetrate or inflict the reported abuse or cause the reported neglect. Any person filing a report under this section may be liable in a civil or criminal action if the department or a district attorney
determines that the person filing the report may have perpetrated or inflicted the abuse or caused the neglect.

(h) No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, files a report under this section, testifies or is about to testify in any proceeding involving child abuse or neglect. Any employer who discharges, discriminates or retaliates against that mandated reporter shall be liable to the mandated reporter for treble damages, costs and attorney's fees.

(i) Within 30 days of receiving a report from a mandated reporter, the department shall notify the mandated reporter, in writing, of its determination of the nature, extent and cause or causes of the injuries to the child and the services that the department intends to provide to the child or the child's family.

(j) Any privilege relating to confidential communications, established by sections 135 to 135B, inclusive, of chapter 112 or by sections 20A and 20B of chapter 233, shall not prohibit the filing of a report under this section or a care and protection petition under section 24, except that a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner need not report information solely gained in a confession or similarly confidential communication in other religious faiths. Nothing in the general laws shall modify or limit the duty of a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner to report suspected child abuse or neglect under this section when the priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner is acting in some other capacity that would otherwise make him a mandated reporter.

(k) A mandated reporter who is professionally licensed by the commonwealth shall complete training to recognize and report suspected child abuse or neglect.

119 § 51B. Investigation of report of abuse filed under Sec 51A; removal of child; transmission and filing of written reports; notice to district attorney; disclosure of information by mandated reporter.

Mass. Gen. Laws. ch. 119 § 51B

(a) Upon receipt of a report filed under section 51A, the department shall investigate the suspected child abuse or neglect, provide a written evaluation of the household of the child, including the parents and home environment and make a written determination relative to the safety of and risk posed to the child and whether the suspected child abuse or neglect is substantiated. The department shall immediately report to the district attorney and local law enforcement authorities, a sexually exploited child or a child who is otherwise a human trafficking victim, regardless of whether the child is living with a parent, guardian or other caretaker.

(b) The investigation shall include: (i) a home visit at which the child is viewed, if appropriate; (ii) a determination of the nature, extent and cause or causes of the injuries; (iii) the identity of the person or persons responsible therefore; (iv) the name, age and condition of other children in the same household; (v) an evaluation of the parents and the home environment; and (vi) all other pertinent facts or matters. The department shall coordinate with other agencies to make all reasonable efforts to minimize the number of interviews of any potential victim of child abuse or neglect. Upon completion of the investigation and evaluation, the department shall make a written determination relative to: (i) the safety of the child and risk of physical or emotional injury to that child and the safety of and risk thereto of any other children in the household; and (ii) whether the suspected child abuse or neglect is substantiated.
(c) If the department has reasonable cause to believe a child's health or safety is in immediate danger from abuse or neglect, the department shall take a child into immediate temporary custody if it has reasonable cause to believe that the removal is necessary to protect the child from abuse or neglect. The investigation and evaluation shall commence within 2 hours of initial contact and an interim report with an initial determination regarding the child's safety and custody shall be completed as soon as possible but not more than 24 hours after initial contact. The final report required under this section shall be complete within 5 business days of initial contact. If a child is taken into immediate temporary custody, the department shall make a written report stating the reasons for such removal and shall file a care and protection petition under section 24 on the next court day.

(d) If the department does not have reasonable cause to believe that a child's health or safety is in immediate danger from abuse or neglect, the investigation and evaluation shall commence within 2 business days of initial contact and a determination shall be made within 15 business days, unless a waiver has been approved by the area director or requested by law enforcement.

(e) Notwithstanding subsection (c), whenever the department has reasonable cause to believe that removal is necessary to protect a child from abuse or neglect, it shall take the child into immediate temporary custody. If a child is taken into immediate temporary custody, the department shall make a written report stating the reasons for such removal and shall file a care and protection petition under section 24 on the next court day.

(f) If a child named in a report filed under section 51A is in an out-of-home placement and the suspected child abuse or neglect is substantiated, the department shall notify his parents that such report was filed and has been substantiated by the department. If the child died or suffered serious bodily injury, the department shall notify the parents, including the biological parents, if the department determines that such notification is in the best interest of the child or of another child in the same placement. The department shall consult with these parents in decisions about removal or further placement. These notifications and consultations shall not be required if the commissioner determines that such notifications or consultations are not appropriate or in the best interests of a child.

(g) The department shall offer appropriate services to the family of any child which it has reasonable cause to believe is suffering from any of the conditions described in the report to prevent further injury to the child, to safeguard his welfare, and to preserve and stabilize family life whenever possible. If the family declines or is unable to accept or to participate in the offered services, the department or any person may file a care and protection petition under section 24.

(h) The department shall file in the central registry, established under section 51F, a written report containing information sufficient to identify each child whose name is reported under this section or section 51A. A notation shall be sent to the central registry whenever further reports on each such child are filed with the department. If the department determines during the initial screening period of an investigation that a report filed under section 51A is frivolous, or other absolute determination that abuse or neglect has not taken place, such report shall be declared as “allegation invalid”. If a report is declared “allegation invalid”, the name of the child, or identifying characteristics relating to the child, or the names of his parents or guardian or any other person relevant to the report, shall not be placed in the central registry or in any other computerized program utilized in the department.

(i) The department may purchase and utilize such protective services of private and voluntary agencies as it determines necessary.
The department shall adopt regulations to implement the sections 51A to 51F, inclusive.

The department shall notify and shall transmit copies of substantiated 51A reports and its written evaluations and written determinations under subsection (a) or (b) to the district attorney for the county in which the child resides and for the county in which the suspected abuse or neglect occurred, and to the local law enforcement authorities in the city or town in which the child resides and in the city or town in which the suspected abuse or neglect occurred when the department has reasonable cause to believe that 1 of the conditions listed below resulted from abuse or neglect.

The department shall immediately report to the district attorney and local law enforcement authorities listed above when early evidence indicates there is reasonable cause to believe that 1 of the conditions listed below resulted from abuse or neglect:

1. a child has died or has suffered brain damage, loss or substantial impairment of a bodily function or organ, substantial disfigurement, or serious physical injury including, but not limited to, a fracture of any bone, a severe burn, an impairment of any organ or an injury requiring the child to be placed on life-support systems;
2. a child has been sexually assaulted, which shall include a violation of section 13B, 13B1/2, 13B3/4, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24 or 24B of chapter 265.
3. a child has been sexually exploited, which shall include a violation of section 4A, 4B or 29A of said chapter 272 or is a sexually exploited child or a child who is otherwise a human trafficking victim; or
4. any other disclosure of physical abuse involving physical evidence which may be destroyed, any current disclosure by a child of sexual assault, or the presence of physical evidence of sexual assault.

Within 45 days of the notification under the first paragraph, the department shall further notify the district attorney of a service plan, if any, developed for such child and his family.

No provision of chapter 66A, sections 135 to 135B, inclusive, of chapter 112, or sections 51E and 51F of this chapter relating to confidential data or confidential communications shall prohibit the department from making such notifications or from providing to the district attorney or local law enforcement authorities any information obtained under this section. No person providing notification or information to a district attorney or local law enforcement authorities under this section shall be liable in any civil or criminal action by reason of such action. Nothing herein shall be construed to prevent the department from notifying a district attorney relative to any incident reported to the department under section 51A or to limit the prosecutorial power of a district attorney.

If the department substantiates a report alleging that abuse or neglect occurred at a facility approved, owned, operated or funded, in whole or in part, or was committed by an individual the department has reason to believe was licensed by the department of elementary and secondary education, the department of early education and care, the department of mental health, the department of developmental services, the department of public health or the department of youth services, the department shall notify the office of the child advocate and the affected department, in writing, by transmitting a copy of the report filed under section 51A and the department's written evaluation and written determination.

If the department substantiates a report alleging that abuse or neglect was committed by an individual who was employed at a facility approved or licensed by the department of early education and care, then the department shall notify
the office of the child advocate and the department of early education and care, in writing, by transmitting a copy of the report filed under section 51A and the department’s written evaluation and written determination.

If the department is aware of a licensing violation in any such facility, the department shall immediately notify the affected department.

No provision of chapter 66A, sections 135 to 135B, inclusive, of chapter 112, or sections 51E and 51F, or any other provision of law shall prohibit: (i) the department from transmitting copies of reports filed under section 51A or its written evaluations and written determinations to the office of the child advocate or the affected departments; (ii) the department, the office of the child advocate and the affected departments from coordinating activities and sharing information for the purposes of this section or for investigating a licensing violation; or (iii) the department’s employees from testifying at administrative hearings held by the affected department in connection with a licensing violation.

(m) Notwithstanding any privilege created by statute or common law relating to confidential communications or any statute prohibiting the disclosure of information but subject to subsection (j) of section 51A, a mandated reporter shall answer questions and provide information posed by the department relating to an investigation conducted under this section, whether or not that person filed the 51A report being investigated. A statutory or common law privilege shall not preclude the admission of any such information in any civil proceeding concerning abuse or neglect of a child, placement or custody of a child.

(n) No person required to provide such information under this section or permitted to disclose information under section 5A of chapter 119A shall be liable in any civil or criminal action for providing such information.

(o) No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, provides such information, testifies or is about to testify in any proceeding involving child abuse or neglect unless such person perpetrated or inflicted such abuse or neglect. Any employer who discharges, discriminates or retaliates against such a person shall be liable to such person for treble damages, costs and attorney’s fees.

(p) If the department determines that a 51A report is not substantiated, the department shall notify in writing any and all sources or recipients of information in connection with the investigation that the report of abuse or neglect has not been substantiated, unless the target of the investigation requests that such notification not occur.

(q) The department and the private agencies under contract with it, shall conduct periodic and regular training and education to caseworkers, screeners of 51A reports, and administrators of the department and the agencies regarding their duties and obligations under section 51A and 51B.

(r) There shall be a review by a regional clinical review team when 3 or more 51A reports involving separate incidents have been filed on any child in a family within 3 months and a review by an area clinical review team when 3 or more 51A reports involving separate incidents have been filed on any child in a family within 1 year.

119 § 51E. Reports of injured children; files; confidentiality; penalties. Mass. Gen. Laws. ch. 119 § 51E

The department shall maintain a file of the written reports prepared under this section and sections 51A to 51D, inclusive. These written reports shall be confidential.
Upon request and with the approval of the commissioner, copies of written reports of initial investigations may be provided to: (i) the child's parent, guardian, or counsel, (ii) the reporting person or agency, (iii) the appropriate review board, (iv) a child welfare agency of another state for the purpose of assisting that agency in determining whether to approve a prospective foster or adoptive parent, or (v) a social worker assigned to the case. No such report shall be made available to any persons other than those specified in this section without the written and informed consent of the child's parent or guardian, the written approval of the commissioner, or an order of a court of competent jurisdiction. Pursuant to chapter 18C, the child advocate shall have access to these reports.

A child welfare agency of another state may, upon request, and upon the approval of the commissioner, receive a copy of the written report of the initial investigation if the agency has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect.

The name and all other identifying information relating to any child, or to his parents or guardian, shall be removed from said reports 1 year after the department determines that the allegation of serious physical or emotional injury resulting from abuse or neglect cannot be substantiated, or, if said allegations are substantiated, when the child reaches the age of 18, or 1 year after the date of termination of services to the child or his family, whichever date occurs last; provided, however, that the department may retain information on unsubstantiated reports to assist in future risk and safety assessments of children and families and may release said information to the child welfare agencies of other states upon request of said child welfare agency for the purpose of assisting said child welfare agency in determining whether to approve a prospective foster or adoptive parent.

Any person who permits any information in the files to be released to persons other than those specified in this section shall be punished by a fine of not more than $1,000 or by imprisonment for not more than 21/2 years, or both.

265 § 13B1/2. Commission of indecent assault and battery on a child under the age of 14 during commission of certain offenses or by mandated reporters; penalties.

Whoever commits an indecent assault and battery on a child under the age of 14 and:

(a) the indecent assault and battery was committed during the commission or attempted commission of the following offenses:-- (1) armed burglary as set forth in section 14 of chapter 266; (2) unarmed burglary as set forth in section 15 of said chapter 266; (3) breaking and entering as set forth in section 16 of said chapter 266; (4) entering without breaking as set forth in section 17 of said chapter 266; (5) breaking and entering into a dwelling house as set forth in section 18 of said chapter 266; (6) kidnapping as set forth in section 26 of chapter 265; (7) armed robbery as set forth in section 19 of said chapter 265; (8) unarmored robbery as set forth in section 19 of said chapter 265; (9) assault and battery with a dangerous weapon or assault with a dangerous weapon, as set forth in sections 15A and 15B of said chapter 265; (10) home invasion as set forth in section 18C of said chapter 265; or (11) posing or exhibiting child in state of nudity or sexual conduct as set forth in section 29A of chapter 272; or

(b) at the time of commission of said indecent assault and battery, the defendant was a mandated reporter as is defined in section 21 of chapter 119, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible
for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

In a prosecution under this section, a child under the age of 14 years shall be deemed incapable of consenting to any conduct of the defendant for which such defendant is being prosecuted.

265 § 23A. Rape and abuse of child aggravated by age difference between defendant and victim or by when committed by mandated reporters; penalties.
Mass. Gen. Laws. ch. 256 § 23A

Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age and:

(a) there exists more than a 5 year age difference between the defendant and the victim and the victim is under 12 years of age;

(b) there exists more than a 10 year age difference between the defendant and the victim where the victim is between the age of 12 and 16 years of age; or

(c) at the time of such intercourse, was a mandated reporter as defined in section 21 of chapter 119, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.
§ 330.1748a. Child abuse or neglect investigation; request for mental health records and information; immunity from civil or administrative liability; imposition of duties under another statute.

Mich Comp. Laws Ann. § 330.1748a

(1) If there is a compelling need for mental health records or information to determine whether child abuse or child neglect has occurred or to take action to protect a minor where there may be a substantial risk of harm, a family independence agency caseworker or administrator directly involved in the child abuse or neglect investigation shall notify a mental health professional that a child abuse or neglect investigation has been initiated involving a person who has received services from the mental health professional and shall request in writing mental health records and information that are pertinent to that investigation. Upon receipt of this notification and request, the mental health professional shall review all mental health records and information in the mental health professional's possession to determine if there are mental health records or information that is pertinent to that investigation. Within 14 days after receipt of a request made under this subsection, the mental health professional shall release those pertinent mental health records and information to the caseworker or administrator directly involved in the child abuse or neglect investigation.

(2) The following privileges do not apply to mental health records or information to which access is given under this section:
   (b) The dentist-patient privilege created in section 16648 of the public health code, 1978 PA 368, MCL 333.16648.
   (c) The licensed professional counselor-client and limited licensed counselor-client privilege created in section 18117 of the public health code, 1978 PA 368, MCL 333.18117.
   (d) The psychologist-patient privilege created in section 18237 of the public health code, 1978 PA 368, MCL 333.18237.
   (e) Any other health professional-patient privilege created or recognized by law.

(3) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, an individual who in good faith gives access to mental health records or information under this section is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

(4) A duty under this act relating to child abuse and neglect does not alter a duty imposed under another statute, including the child protection law, 1975 PA 238, MCL 722.621 to 722.638, regarding the reporting or investigation of child abuse or neglect.

§ 333.16281. Initiation of child abuse or neglect investigations; notice to licensee or registrant; request for child's medical records and information; release of medical records and information; inapplicable privileges; immunity from liability; exception; duties imposed by other statutes.


(1) If there is a compelling need for records or information to determine whether child abuse or child neglect has occurred or to take action to protect a child where there may be a substantial risk of harm, a family independence agency caseworker or administrator directly involved in the child abuse or neglect investigation shall notify a licensee or registrant that a child abuse or neglect investigation has been
initiated regarding a child who has received services from the licensee or registrant and shall request in writing the child's medical records and information that are pertinent to that investigation. Upon receipt of this notification and request, the licensee or registrant shall review all of the child's medical records and information in the licensee's or registrant's possession to determine if there are medical records or information that is pertinent to that investigation. Within 14 days after receipt of a request made under this subsection, the licensee or registrant shall release those pertinent medical records and information to the caseworker or administrator directly involved in the child abuse or neglect investigation.

(2) The following privileges do not apply to medical records or information released or made available under subsection (1):
   (b) The dentist-patient privilege created in section 16648.
   (c) The licensed professional counselor-client and limited licensed counselor-client privilege created in section 18117.
   (d) The psychologist-patient privilege created in section 18237.
   (e) Any other health professional-patient privilege created or recognized by law.

(3) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, an individual who in good faith provides access to medical records or information under this section is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

(4) This section does not apply to a report, record, datum, or information whose confidentiality and disclosure are governed by section 5131.

(5) A duty under this act relating to child abuse and neglect does not alter a duty imposed under another statute, including the child protection law, 1975 PA 238, MCL 722.621 to 722.638, regarding the reporting or investigation of child abuse or neglect.

§722.623. Required reporting of child abuse, neglect, or exposure to or contact with methamphetamine production to department; transmission of report to other agencies; reporting of suspected exposure to or contact with methamphetamine production to local law enforcement agency.

(1) An individual is required to report under this act as follows:
   (a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, social worker, licensed master's social worker, licensed bachelor's social worker, registered social service technician, social service technician, a person employed in a professional capacity in any office of the friend of the court, school administrator, school counselor or teacher, law enforcement officer, member of the clergy, or regulated child care provider who has reasonable cause to suspect child abuse or child neglect shall make immediately, by telephone or otherwise, an oral report, or cause an oral report to be made, of the suspected child abuse or child neglect to the department. Within 72 hours after making the oral report, the reporting person shall file a written report as required in this act. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency,
or school of his or her finding and that the report has been made, and shall make a copy of the written report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the staff of the hospital, agency, or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school is adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

(b) A department employee who is 1 of the following and has reasonable cause to suspect child abuse or child neglect shall make a report of suspected child abuse or child neglect to the department in the same manner as required under subdivision (a):

(i) Eligibility specialist.
(ii) Family independence manager.
(iii) Family independence specialist.
(iv) Social services specialist.
(v) Social work specialist.
(vi) Social work specialist manager.
(vii) Welfare services specialist.

(c) Any employee of an organization or entity that, as a result of federal funding statutes, regulations, or contracts, would be prohibited from reporting in the absence of a state mandate or court order. A person required to report under this subdivision shall report in the same manner as required under subdivision (a).

(2) The written report shall contain the name of the child and a description of the child abuse or child neglect. If possible, the report shall contain the names and addresses of the child's parents, the child's guardian, the persons with whom the child resides, and the child's age. The report shall contain other information available to the reporting person that might establish the cause of the child abuse or child neglect, and the manner in which the child abuse or child neglect occurred.

(3) The department shall inform the reporting person of the required contents of the written report at the time the oral report is made by the reporting person.

(4) The written report required in this section shall be mailed or otherwise transmitted to the county department of the county in which the child suspected of being abused or neglected is found.

(5) Upon receipt of a written report of suspected child abuse or child neglect, the department may provide copies to the prosecuting attorney and the probate court of the counties in which the child suspected of being abused or neglected resides and is found.

(6) If an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates a violation of sections 136b, 145c, 462a to 462h, or 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.462a to 750.462h, and 750.520b to 750.520g, or section 7401c of the public health code, 1978 PA 368, MCL 333.7401c, involving methamphetamine has occurred, or if the allegation, written report, or subsequent investigation indicates that the suspected child abuse or child neglect was committed by an individual who is not a person responsible for the child's health or welfare, including, but not limited to, a member of the clergy, a teacher, or a teacher's aide, the department shall transmit a copy of the allegation or written report and the results of any investigation to a law enforcement agency in the county in which the incident occurred. If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected child abuse or child neglect is a child care provider and the
department believes that the report has basis in fact, the department shall, within 24 hours of completion, transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child.

(7) If a local law enforcement agency receives an allegation or written report of suspected child abuse or child neglect or discovers evidence of or receives a report of an individual allowing a child to be exposed to or to have contact with methamphetamine production, and the allegation, written report, or subsequent investigation indicates that the child abuse or child neglect or allowing a child to be exposed to or to have contact with methamphetamine production, was committed by a person responsible for the child's health or welfare, the local law enforcement agency shall refer the allegation or provide a copy of the written report and the results of any investigation to the county department of the county in which the abused or neglected child is found, as required by subsection (1)(a). If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected child abuse or child neglect or allowed a child to be exposed to or to have contact with methamphetamine production, is a child care provider and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child. Nothing in this subsection or subsection (1) relieves the department of its responsibilities to investigate reports of suspected child abuse or child neglect under this act.

(8) For purposes of this act, the pregnancy of a child less than 12 years of age or the presence of a venereal disease in a child who is over 1 month of age but less than 12 years of age is reasonable cause to suspect child abuse or child neglect has occurred.

(9) In conducting an investigation of child abuse or child neglect, if the department suspects that a child has been exposed to or has had contact with methamphetamine production, the department shall immediately contact the law enforcement agency in the county in which the incident occurred.

§722.623a. Required reports of controlled substances in the bodies of newborn infants.

In addition to the reporting requirement in section 3, a person who is required to report suspected child abuse or neglect under section 3(1) and who knows, or from the child's symptoms has reasonable cause to suspect, that a newborn infant has any amount of alcohol, a controlled substance, or a metabolite of a controlled substance in his or her body shall report to the department in the same manner as required under section 3. A report is not required under this section if the person knows that the alcohol, controlled substance, or metabolite, or the child's symptoms, are the result of medical treatment administered to the newborn infant or his or her mother.

§722.624. Reports by those not required to report.

In addition to those persons required to report child abuse or neglect under section 3, any person, including a child, who has reasonable cause to suspect child abuse or neglect may report the matter to the department or a law enforcement agency.
§722.625. Reporting persons, identity, immunity from liability, good faith.

Except for records available under section 7(2)(a), (b), and (n), the identity of a reporting person is confidential subject to disclosure only with the consent of that person or by judicial process. A person acting in good faith who makes a report, cooperates in an investigation, or assists in any other requirement of this act is immune from civil or criminal liability that might otherwise be incurred by that action. A person making a report or assisting in any other requirement of this act is presumed to have acted in good faith. This immunity from civil or criminal liability extends only to acts done according to this act and does not extend to a negligent act that causes personal injury or death or to the malpractice of a physician that results in personal injury or death.

§722.626. Detention of child in temporary protective custody; preliminary hearing; examinations; report; medical evaluation.

(1) If a child suspected of being abused or neglected is admitted to a hospital or brought to a hospital for outpatient services and the attending physician determines that the release of the child would endanger the child's health or welfare, the attending physician shall notify the person in charge and the department. The person in charge may detain the child in temporary protective custody until the next regular business day of the probate court, at which time the probate court shall order the child detained in the hospital or in some other suitable place pending a preliminary hearing as required by section 14 of chapter 12A of the probate code of 1939, 1939 PA 288, MCL 712A.14, or order the child released to the child's parent, guardian, or custodian.

(2) When a child suspected of being an abused or neglected child is seen by a physician, the physician shall make the necessary examinations, which may include physical examinations, x-rays, photographs, laboratory studies, and other pertinent studies. The physician's written report to the department shall contain summaries of the evaluation, including medical test results.

(3) If a report is made by a person other than a physician, or if the physician's report is not complete, the department may request a court order for a medical evaluation of the child. The department shall have a medical evaluation made without a court order if either of the following occurs:
   (a) The child's health is seriously endangered and a court order cannot be obtained.
   (b) The child is displaying symptoms suspected to be the result of exposure to or contact with methamphetamine production.

§722.627. Electronic central registry; availability of confidential records; closed court proceeding not required; notice to person named in record; amending or expunging certain reports and records; hearing; evidence; release of reports compiled by law enforcement agency; information obtained by citizen review panel; release or inspection of documents, reports, or records from another agency or organization; sharing of information or records. [Effective until June 4, 2018]

(1) The department shall maintain a statewide, electronic central registry to carry out the intent of this act.
(2) Unless made public as specified information released under section 7d, a written report, document, or photograph filed with the department as provided in this act is a confidential record available only to 1 or more of the following:

(a) A legally mandated public or private child protective agency investigating a report of known or suspected child abuse or child neglect or a legally mandated public or private child protective agency or foster care agency prosecuting a disciplinary action against its own employee involving child protective services or foster records.

(b) A police agency or other law enforcement agency investigating a report of known or suspected child abuse or child neglect.

(c) A physician who is treating a child whom the physician reasonably suspects may be abused or neglected.

(d) A person legally authorized to place a child in protective custody when the person is confronted with a child whom the person reasonably suspects may be abused or neglected and the confidential record is necessary to determine whether to place the child in protective custody.

(e) A person, agency, or organization, including a multidisciplinary case consultation team, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record under this act, or who is responsible for the child's health or welfare.

(f) A person named in the report or record as a perpetrator or alleged perpetrator of the child abuse or child neglect or a victim who is an adult at the time of the request, if the identity of the reporting person is protected as provided in section 5.

(g) A court for the purposes of determining the suitability of a person as a guardian of a minor or that otherwise determines that the information is necessary to decide an issue before the court, or in the event of a child's death, a court that had jurisdiction over that child under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(h) A grand jury that determines the information is necessary to conduct the grand jury's official business.

(i) A person, agency, or organization engaged in a bona fide research or evaluation project. The person, agency, or organization shall not release information identifying a person named in the report or record unless that person's written consent is obtained. The person, agency, or organization shall not conduct a personal interview with a family without the family's prior consent and shall not disclose information that would identify the child or the child's family or other identifying information. The department director may authorize the release of information to a person, agency, or organization described in this subdivision if the release contributes to the purposes of this act and the person, agency, or organization has appropriate controls to maintain the confidentiality of personally identifying information for a person named in a report or record made under this act.

(j) A lawyer-guardian ad litem or other attorney appointed as provided by section 10.

(k) A child placing agency licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for adoption, a foster care applicant or licensee or an employee of a foster care applicant or licensee, an adult member of an applicant's or licensee's household, or other persons in a foster care or adoptive home who are directly responsible for the care and welfare of children, to determine suitability of a home for adoption or foster care. The child placing agency shall disclose the information to a foster care applicant or licensee under 1973 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

(l) Family division of circuit court staff authorized by the court to investigate foster care applicants and licensees, employees of foster care applicants and licensees, adult members of the applicant's or licensee's household, and other persons in the home who are directly responsible for the care.
and welfare of children, for the purpose of determining the suitability of
the home for foster care. The court shall disclose this information to the
applicant or licensee.

(m) Subject to section 7a, a standing or select committee or appropriations
subcommittee of either house of the legislature having jurisdiction over child
protective services matters.

(n) The children's ombudsman appointed under the children's ombudsman
act, 1994 PA 204, MCL 722.921 to 722.932.

(o) A child fatality review team established under section 7b and authorized
under that section to investigate and review a child death.

(p) A county medical examiner or deputy county medical examiner appointed
under 1953 PA 181, MCL 52.201 to 52.216, for the purpose of carrying out his
or her duties under that act.

(q) A citizen review panel established by the department. Access under this
subdivision is limited to information the department determines is necessary
for the panel to carry out its prescribed duties.

(r) A child care regulatory agency.

(s) A foster care review board for the purpose of meeting the requirements
of 1984 PA 422, MCL 722.131 to 722.139a.

(t) A local friend of the court office.

(u) A department employee actively representing himself or herself in a
disciplinary action, a labor union representative who is actively representing
a department employee in a disciplinary action, or an arbitrator or
administrative law judge conducting a hearing involving a department
employee's dereliction, malfeasance, or misfeasance of duty, for use solely
in connection with that action or hearing. Information disclosed under this
subdivision shall be returned not later than 10 days after the conclusion of
the action or hearing. A recipient shall not receive further disclosures under
this subdivision while he or she retains disclosed information beyond the
deadline specified for return.

(v) A federal or state governmental agency that may, by law, conduct an audit
or similar review of the department's activities under this act.

(w) A children's advocacy center in the course of providing services to a child
alleged to have been the victim of child abuse or child neglect or to that
child's family.

(3) Subject to subsection (9), a person or entity to whom information described in
subsection (2) is disclosed shall make the information available only to a person
or entity described in subsection (2). This subsection does not require a court
proceeding to be closed that otherwise would be open to the public.

(4) If the department classifies a report of suspected child abuse or child neglect as
a central registry case, the department shall maintain a record in the central registry
and, within 30 days after the classification, shall notify in writing each person who is
named in the record as a perpetrator of the child abuse or child neglect. The notice
shall be sent by registered or certified mail, return receipt requested, and delivery
restricted to the addressee. The notice shall set forth the person's right to request
expunction of the record and the right to a hearing if the department refuses the
request. The notice shall state that the record may be released under section 7d.
The notice shall not identify the person reporting the suspected child abuse or child
neglect.

(5) A person who is the subject of a report or record made under this act may request
the department to amend an inaccurate report or record from the central registry
and local office file. A person who is the subject of a report or record made under
this act may request the department to expunge from the central registry a report
or record by requesting a hearing under subsection (6). A report or record filed in a
local office file is not subject to expunction except as the department authorizes, if
considered in the best interest of the child.

(6) A person who is the subject of a report or record made under this act may, within 180 days from the date of service of notice of the right to a hearing, request the department hold a hearing to review the request for amendment or expunction. If the hearing request is made within 180 days of the notice, the department shall hold a hearing to determine by a preponderance of the evidence whether the report or record in whole or in part should be amended or expunged from the central registry. The hearing shall be held before a hearing officer appointed by the department and shall be conducted as prescribed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may, for good cause, hold a hearing under this subsection if the department determines that the person who is the subject of the report or record submitted the request for a hearing within 60 days after the 180-day notice period expired.

(7) If the investigation of a report conducted under this act does not show child abuse or child neglect by a preponderance of evidence, or if a court dismisses a petition based on the merits of the petition filed under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, because the petitioner has failed to establish that the child comes within the jurisdiction of the court, the information identifying the subject of the report shall be expunged from the central registry. If a preponderance of evidence of child abuse or child neglect exists, or if a court takes jurisdiction of the child under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, the department shall maintain the information in the central registry as follows:

(a) Except as provided in subdivision (b), for a person listed as a perpetrator in category I or II under section 8d, either as a result of an investigation or as a result of the reclassification of a case, the department shall maintain the information in the central registry for 10 years.
(b) For a person listed as a perpetrator in category I or II under section 8d that involved any of the circumstances listed in section 17(1) or 18(1), the department shall maintain the information in the central registry until the department receives reliable information that the perpetrator of the child abuse or child neglect is dead. For the purpose of this subdivision, “reliable information” includes, but is not limited to, information obtained using the United States social security death index database.
(c) For a person who is the subject of a report or record made under this act before March 31, 2015 the following apply:

(i) Except as provided in subparagraph (ii), for a person listed as a perpetrator in category I or II under section 8d either as a result of an investigation or as a result of the reclassification of a case, the department may remove the information for a person described in this subparagraph after 10 years without a request for amendment or expunction.
(ii) For a person listed as a perpetrator in category I or II under section 8d that involved any of the circumstances listed in section 17(1) or 18(1), the department shall maintain the information in the central registry until the department receives reliable information that the perpetrator of the child abuse or child neglect is dead. For the purpose of this subparagraph, “reliable information” includes, but is not limited to, information obtained using the United States social security death index database.

(8) In releasing information under this act, the department shall not include a report compiled by a police agency or other law enforcement agency related to an ongoing investigation of suspected child abuse or child neglect. This subsection does not prohibit the department from releasing reports of convictions of crimes related to child abuse or child neglect.
(9) A member or staff member of a citizen review panel shall not disclose identifying information about a specific child protection case to an individual, partnership, corporation, association, governmental entity, or other legal entity. A member or staff member of a citizen review panel is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407. Information obtained by a citizen review panel is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) Documents, reports, or records authored by or obtained from another agency or organization shall not be released or open for inspection under subsection (2) unless required by other state or federal law, in response to an order issued by a judge, magistrate, or other authorized judicial officer, or unless the documents, reports, or records are requested for a child abuse or child neglect case or for a criminal investigation of a child abuse or child neglect case conducted by law enforcement.

(11) Notwithstanding subsection (2) and section 5, information or records in the possession of the department or the department of licensing and regulatory affairs may be shared to the extent necessary for the proper functioning of the department or the department of licensing and regulatory affairs in administering child welfare or child care facility licensing under this act or in an investigation conducted under section 43b of the social welfare act, 1939 PA 280, MCL 400.43b. Information or records shared under this subsection shall not be released by either the department or the department of licensing and regulatory affairs unless otherwise permitted under this act or other state or federal law. Neither the department nor the department of licensing and regulatory affairs shall release or open for inspection any document, report, or record authored by or obtained from another agency or organization unless 1 of the conditions of subsection (10) applies.

§722.627. Electronic central registry; availability of confidential records; closed court proceeding not required; notice to person named in record; amending or expunging certain reports and records; hearing; evidence; release of reports compiled by law enforcement agency; information obtained by citizen review panel; release or inspection of documents, reports, or records from another agency or organization; sharing of information or records. [Effective June 4, 2018]

(1) The department shall maintain a statewide, electronic central registry to carry out the intent of this act.

(2) Unless made public as specified information released under section 7d, a written report, document, or photograph filed with the department as provided in this act is a confidential record available only to 1 or more of the following:
   (a) A legally mandated public or private child protective agency investigating a report of known or suspected child abuse or child neglect or a legally mandated public or private child protective agency or foster care agency prosecuting a disciplinary action against its own employee involving child protective services or foster records.
   (b) A police agency or other law enforcement agency investigating a report of known or suspected child abuse or child neglect.
   (c) A physician who is treating a child whom the physician reasonably suspects may be abused or neglected.
   (d) A person legally authorized to place a child in protective custody when the person is confronted with a child whom the person reasonably suspects may be abused or neglected and the confidential record is necessary to determine whether to place the child in protective custody.
(e) A person, agency, or organization, including a multidisciplinary case consultation team, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record under this act, or who is responsible for the child's health or welfare.
(f) A person named in the report or record as a perpetrator or alleged perpetrator of the child abuse or child neglect or a victim who is an adult at the time of the request, if the identity of the reporting person is protected as provided in section 5.
(g) A court for the purposes of determining the suitability of a person as a guardian of a minor or that otherwise determines that the information is necessary to decide an issue before the court, or in the event of a child's death, a court that had jurisdiction over that child under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.
(h) A grand jury that determines the information is necessary to conduct the grand jury's official business.
(i) A person, agency, or organization engaged in a bona fide research or evaluation project. The person, agency, or organization shall not release information identifying a person named in the report or record unless that person's written consent is obtained. The person, agency, or organization shall not conduct a personal interview with a family without the family's prior consent and shall not disclose information that would identify the child or the child's family or other identifying information. The department director may authorize the release of information to a person, agency, or organization described in this subdivision if the release contributes to the purposes of this act and the person, agency, or organization has appropriate controls to maintain the confidentiality of personally identifying information for a person named in a report or record made under this act.
(j) A lawyer-guardian ad litem or other attorney appointed as provided by section 10.
(k) A child placing agency licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for adoption, a foster care applicant or licensee or an employee of a foster care applicant or licensee, an adult member of an applicant's or licensee's household, or other persons in a foster care or adoptive home who are directly responsible for the care and welfare of children, to determine suitability of a home for adoption or foster care. The child placing agency shall disclose the information to a foster care applicant or licensee under 1973 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.
(l) Family division of circuit court staff authorized by the court to investigate foster care applicants and licensees, employees of foster care applicants and licensees, adult members of the applicant's or licensee's household, and other persons in the home who are directly responsible for the care and welfare of children, for the purpose of determining the suitability of the home for foster care. The court shall disclose this information to the applicant or licensee.
(m) Subject to section 7a, a standing or select committee or appropriations subcommittee of either house of the legislature having jurisdiction over child protective services matters.
(n) The children's ombudsman appointed under the children's ombudsman act, 1994 PA 204, MCL 722.921 to 722.932.
(o) A child fatality review team established under section 7b and authorized under that section to investigate and review a child death.
(p) A county medical examiner or deputy county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216, for the purpose of carrying out his or her duties under that act.
(q) A citizen review panel established by the department. Access under this subdivision is limited to information the department determines is necessary for the panel to carry out its prescribed duties.
(r) A child care regulatory agency.
(s) A foster care review board for the purpose of meeting the requirements of 1984 PA 422, MCL 722.131 to 722.139a.
(t) A local friend of the court office.
(u) A department employee actively representing himself or herself in a disciplinary action, a labor union representative who is actively representing a department employee in a disciplinary action, or an arbitrator or administrative law judge conducting a hearing involving a department employee's dereliction, malfeasance, or misfeasance of duty, for use solely in connection with that action or hearing. Information disclosed under this subdivision shall be returned not later than 10 days after the conclusion of the action or hearing. A recipient shall not receive further disclosures under this subdivision while he or she retains disclosed information beyond the deadline specified for return.
(v) A federal or state governmental agency that may, by law, conduct an audit or similar review of the department's activities under this act.
(w) A children's advocacy center in the course of providing services to a child alleged to have been the victim of child abuse or child neglect or to that child's family.
(x) A tribal representative, agency, or organization, including a multidisciplinary team, authorized by the Indian child's tribe, to care for, diagnose, treat, review, evaluate, or monitor active efforts regarding an Indian child, parent, or Indian custodian. As used in this subdivision, "active efforts", "Indian child", "Indian child's tribe", "Indian custodian", and "parent" mean those terms as defined in section 3 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712B.3.

(3) Subject to subsection (9), a person or entity to whom information described in subsection (2) is disclosed shall make the information available only to a person or entity described in subsection (2). This subsection does not require a court proceeding to be closed that otherwise would be open to the public.

(4) If the department classifies a report of suspected child abuse or child neglect as a central registry case, the department shall maintain a record in the central registry and, within 30 days after the classification, shall notify in writing each person who is named in the record as a perpetrator of the child abuse or child neglect. The notice shall be sent by registered or certified mail, return receipt requested, and delivery restricted to the addressee. The notice shall set forth the person's right to request expunction of the record and the right to a hearing if the department refuses the request. The notice shall state that the record may be released under section 7d. The notice shall not identify the person reporting the suspected child abuse or child neglect.

(5) A person who is the subject of a report or record made under this act may request the department to amend an inaccurate report or record from the central registry and local office file. A person who is the subject of a report or record made under this act may request the department to expunge from the central registry a report or record by requesting a hearing under subsection (6). A report or record filed in a local office file is not subject to expunction except as the department authorizes, if considered in the best interest of the child.

(6) A person who is the subject of a report or record made under this act may, within 180 days from the date of service of notice of the right to a hearing, request the department hold a hearing to review the request for amendment or expunction. If the hearing request is made within 180 days of the notice, the department shall hold a hearing to determine by a preponderance of the evidence whether the report or record in whole or in part should be amended or expunged from the central registry. The hearing shall be held before a hearing officer appointed by the department and
shall be conducted as prescribed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may, for good cause, hold a hearing under this subsection if the department determines that the person who is the subject of the report or record submitted the request for a hearing within 60 days after the 180-day notice period expired.

(7) If the investigation of a report conducted under this act does not show child abuse or child neglect by a preponderance of evidence, or if a court dismisses a petition based on the merits of the petition filed under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, because the petitioner has failed to establish that the child comes within the jurisdiction of the court, the information identifying the subject of the report shall be expunged from the central registry. If a preponderance of evidence of child abuse or child neglect exists, or if a court takes jurisdiction of the child under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, the department shall maintain the information in the central registry as follows:

(a) Except as provided in subdivision (b), for a person listed as a perpetrator in category I or II under section 8d, either as a result of an investigation or as a result of the reclassification of a case, the department shall maintain the information in the central registry for 10 years.

(b) For a person listed as a perpetrator in category I or II under section 8d that involved any of the circumstances listed in section 17(1) or 18(1), the department shall maintain the information in the central registry until the department receives reliable information that the perpetrator of the child abuse or child neglect is dead. For the purpose of this subdivision, "reliable information" includes, but is not limited to, information obtained using the United States Social Security death index database.

(c) For a person who is the subject of a report or record made under this act before March 31, 2015 the following apply:

(i) Except as provided in subparagraph (ii), for a person listed as perpetrator in category I or II under section 8d either as a result of an investigation or as a result of the reclassification of a case, the department may remove the information for a person described in this subparagraph after 10 years without a request for amendment or expunction.

(ii) For a person listed as a perpetrator in category I or II under section 8d that involved any of the circumstances listed in section 17(1) or 18(1), the department shall maintain the information in the central registry until the department receives reliable information that the perpetrator of the child abuse or child neglect is dead. For the purpose of this subparagraph, "reliable information" includes, but is not limited to, information obtained using the United States Social Security death index database.

(8) In releasing information under this act, the department shall not include a report compiled by a police agency or other law enforcement agency related to an ongoing investigation of suspected child abuse or child neglect. This subsection does not prohibit the department from releasing reports of convictions of crimes related to child abuse or child neglect.

(9) A member or staff member of a citizen review panel shall not disclose identifying information about a specific child protection case to an individual, partnership, corporation, association, governmental entity, or other legal entity. A member or staff member of a citizen review panel is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407. Information obtained by a citizen review panel is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) Documents, reports, or records authored by or obtained from another agency or organization shall not be released or open for inspection under subsection (2) unless
required by other state or federal law, in response to an order issued by a judge, magistrate, or other authorized judicial officer, or unless the documents, reports, or records are requested for a child abuse or child neglect case or for a criminal investigation of a child abuse or child neglect case conducted by law enforcement.

(11) Notwithstanding subsection (2) and section 5, information or records in the possession of the department or the department of licensing and regulatory affairs may be shared to the extent necessary for the proper functioning of the department or the department of licensing and regulatory affairs in administering child welfare or child care facility licensing under this act or in an investigation conducted under section 43b of the social welfare act, 1939 PA 280, MCL 400.43b. Information or records shared under this subsection shall not be released by either the department or the department of licensing and regulatory affairs unless otherwise permitted under this act or other state or federal law. Neither the department nor the department of licensing and regulatory affairs shall release or open for inspection any document, report, or record authored by or obtained from another agency or organization unless 1 of the conditions of subsection (10) applies.

§722.628. Referring report or commencing investigation; informing parent or legal guardian of investigation; duties of department; assistance of and cooperation with law enforcement officials; procedures; procedures by prosecuting attorney; cooperation of school or other institution; information as to disposition of report; exception to reporting requirement; surrender of newborn; training of employees in rights of children and families; determination of open friend of the court case.


(1) Within 24 hours after receiving a report made under this act, the department shall refer the report to the prosecuting attorney and the local law enforcement agency if the report meets the requirements of subsection (3)(a), (b), or (c) or section 3(6) or (9) or shall commence an investigation of the child suspected of being abused or neglected. Within 24 hours after receiving a report whether from the reporting person or from the department under subsection (3)(a), (b), or (c) or section 3(6) or (9), the local law enforcement agency shall refer the report to the department if the report meets the requirements of section 3(7) or shall commence an investigation of the child suspected of being abused or neglected or exposed to or who has had contact with methamphetamine production. If the child suspected of being abused or exposed to or who has had contact with methamphetamine production is not in the physical custody of the parent or legal guardian and informing the parent or legal guardian would not endanger the child's health or welfare, the local law enforcement agency or the department shall inform the child's parent or legal guardian of the investigation as soon as the local law enforcement agency or the department discovers the identity of the child's parent or legal guardian.

(2) In the course of its investigation, the department shall determine if the child is abused or neglected. The department shall cooperate with law enforcement officials, courts of competent jurisdiction, and appropriate state agencies providing human services in relation to preventing, identifying, and treating child abuse and child neglect; shall provide, enlist, and coordinate the necessary services, directly or through the purchase of services from other agencies and professions; and shall take necessary action to prevent further abuses, to safeguard and enhance the child's welfare, and to preserve family life where possible. In the course of an investigation, at the time that a department investigator contacts an individual about whom a report has been made under this act or contacts an individual responsible for the health or welfare of a child about whom a report has been made under this act, the department investigator shall advise that individual of the department investigator's
name, whom the department investigator represents, and the specific complaints or allegations made against the individual. The department shall ensure that its policies, procedures, and administrative rules ensure compliance with the provisions of this act.

(3) In conducting its investigation, the department shall seek the assistance of and cooperate with law enforcement officials within 24 hours after becoming aware that 1 or more of the following conditions exist:

(a) Child abuse or child neglect is the suspected cause of a child's death.
(b) The child is the victim of suspected sexual abuse or sexual exploitation.
(c) Child abuse or child neglect resulting in severe physical injury to the child. For purposes of this subdivision and section 17, “severe physical injury” means an injury to the child that requires medical treatment or hospitalization and that seriously impairs the child's health or physical well-being.
(d) Law enforcement intervention is necessary for the protection of the child, a department employee, or another person involved in the investigation.
(e) The alleged perpetrator of the child's injury is not a person responsible for the child's health or welfare.
(f) The child has been exposed to or had contact with methamphetamine production.

(4) Law enforcement officials shall cooperate with the department in conducting investigations under subsections (1) and (3) and shall comply with sections 5 and 7. The department and law enforcement officials shall conduct investigations in compliance with the protocols adopted and implemented as required by subsection (6).

(5) Involvement of law enforcement officials under this section does not relieve or prevent the department from proceeding with its investigation or treatment if there is reasonable cause to suspect that the child abuse or child neglect was committed by a person responsible for the child's health or welfare.

(6) In each county, the prosecuting attorney and the department shall develop and establish procedures for involving law enforcement officials and children's advocacy centers, as appropriate, as provided in this section. In each county, the prosecuting attorney and the department shall adopt and implement standard child abuse and child neglect investigation and interview protocols using as a model the protocols developed by the governor's task force on children's justice as published in FIA Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or an updated version of those publications.

(7) If there is reasonable cause to suspect that a child in the care of or under the control of a public or private agency, institution, or facility is an abused or neglected child, the agency, institution, or facility shall be investigated by an agency administratively independent of the agency, institution, or facility being investigated. If the investigation produces evidence of a violation of section 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to 750.520g, the investigating agency shall transmit a copy of the results of the investigation to the prosecuting attorney of the county in which the agency, institution, or facility is located.

(8) A school or other institution shall cooperate with the department during an investigation of a report of child abuse or child neglect. Cooperation includes allowing access to the child without parental consent if access is determined by the department to be necessary to complete the investigation or to prevent child abuse or child neglect of the child. The department shall notify the person responsible for the child's health or welfare about the department's contact with the child at the time
or as soon afterward as the person can be reached. The department may delay the notice if the notice would compromise the safety of the child or child's siblings or the integrity of the investigation, but only for the time 1 of those conditions exists.

(9) If the department has contact with a child in a school, all of the following apply:
(a) Before contact with the child, the department investigator shall review with the designated school staff person the department's responsibilities under this act and the investigation procedure.
(b) After contact with the child, the department investigator shall meet with the designated school staff person and the child about the response the department will take as a result of contact with the child. The department may also meet with the designated school staff person without the child present and share additional information the investigator determines may be shared subject to the confidentiality provisions of this act.
(c) Lack of cooperation by the school does not relieve or prevent the department from proceeding with its responsibilities under this act.

(10) A child shall not be subjected to a search at a school that requires the child to remove his or her clothing to expose his buttocks or genitalia or her breasts, buttocks, or genitalia unless the department has obtained an order from a court of competent jurisdiction permitting such a search. If the access occurs within a hospital, the investigation shall be conducted so as not to interfere with the medical treatment of the child or other patients.

(11) The department shall enter each report made under this act that is the subject of a field investigation into the CPSI system. The department shall maintain a report entered on the CPSI system as required by this subsection until the child about whom the investigation is made is 18 years old or until 10 years after the investigation is commenced, whichever is later, or, if the case is classified as a central registry case, until the department receives reliable information that the perpetrator of the child abuse or child neglect is dead. Unless made public as specified information released under section 7d, a report that is maintained on the CPSI system is confidential and is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(12) After completing a field investigation and based on its results, the department shall determine in which single category, prescribed by section 8d, to classify the allegation of child abuse or child neglect.

(13) Except as provided in subsection (14), upon completion of the investigation by the local law enforcement agency or the department, the law enforcement agency or department may inform the person who made the report as to the disposition of the report.

(14) If the person who made the report is mandated to report under section 3, upon completion of the investigation by the department, the department shall inform the person in writing as to the disposition of the case and shall include in the information at least all of the following:
(a) What determination the department made under subsection (12) and the rationale for that decision.
(b) Whether legal action was commenced and, if so, the nature of that action.
(c) Notification that the information being conveyed is confidential.

(15) Information sent under subsection (14) shall not include personally identifying information for a person named in a report or record made under this act.

(16) Unless section 5 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the department, the surrender of a newborn
in compliance with chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is not reasonable cause to suspect child abuse or child neglect and is not subject to the section 3 reporting requirement. This subsection does not apply to circumstances that arise on or after the date that chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is repealed. This subsection applies to a newborn whose birth is described in the born alive infant protection act, 2002 PA 687, MCL 333.1071 to 333.1073, and who is considered to be a newborn surrendered under the safe delivery of newborns law as provided in section 3 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.3.

(17) All department employees involved in investigating child abuse or child neglect cases shall be trained in the legal duties to protect the state and federal constitutional and statutory rights of children and families from the initial contact of an investigation through the time services are provided.

(18) The department shall determine whether there is an open friend of the court case regarding a child who is suspected of being abused or neglected if a child protective services investigation of child abuse and child neglect allegations result in any of the following dispositions:

(a) A finding that a preponderance of evidence indicates that there has been child abuse or child neglect.
(b) Emergency removal of the child for child abuse or child neglect before the investigation is completed.
(c) The family court takes jurisdiction on a petition and a child is maintained in his or her own home under the supervision of the department.
(d) If 1 or more children residing in the home are removed and 1 or more children remain in the home.
(e) Any other circumstances that the department determines are applicable and related to child safety.

(19) If the department determines that there is an open friend of the court case and the provisions of subsection (18) apply, the department shall notify the office of the friend of the court in the county in which the friend of the court case is open that there is an investigation being conducted under this act regarding that child and shall also report to the local friend of the court office when there is a change in that child's placement.

(20) Child protective services may report to the local friend of the court office any situation in which a parent, more than 3 times within 1 year or on 5 cumulative reports over several years, made unfounded reports to child protective services regarding alleged child abuse or child neglect of his or her child.

(21) If the department determines that there is an open friend of the court case, the department shall provide noncustodial parents of a child who is suspected of being abused or neglected with the form developed by the department that has information on how to change a custody or parenting time court order.

§ 722.629. Multidisciplinary services; biennial report; continuing education programs; dissemination of information.

(1) The department, in discharging its responsibilities under this act, shall provide, directly or through the purchase of services from other agencies and professions, multidisciplinary services such as those of a pediatrician, psychologist, psychiatrist, public health nurse, social worker, or attorney through the establishment of regionally based or strategically located teams. The department shall prepare a biennial report to the legislature containing information on the activities of the teams created pursuant to this subsection and including recommendations by the teams.
and the department regarding child abuse and neglect when committed by persons responsible for the child's health or welfare.

(2) The department shall assure a continuing education program for department, probate court, and private agency personnel. The program shall include responsibilities, obligations, and powers under this act and the diagnosis and treatment of child abuse and neglect when committed by persons responsible for the child's health or welfare.

(3) The department shall provide for the dissemination of information to the general public with respect to the problem of child abuse and neglect in this state and the facilities, prevention, and treatment methods available to combat child abuse and neglect when committed by persons responsible for the child's health or welfare.

§ 722.631. Privileged communications; reporting of suspected abuse or neglect by member of clergy.

Any legally recognized privileged communication except that between attorney and client or that made to a member of the clergy in his or her professional character in a confession or similarly confidential communication is abrogated and shall not constitute grounds for excusing a report otherwise required to be made or for excluding evidence in a civil child protective proceeding resulting from a report made pursuant to this act. This section does not relieve a member of the clergy from reporting suspected child abuse or child neglect under section 3 if that member of the clergy receives information concerning suspected child abuse or child neglect while acting in any other capacity listed under section 3.

§ 722.632. Report to law enforcement officials or probate court.

This act shall not prohibit a person who has reasonable cause to suspect child abuse or neglect from making a report to the appropriate law enforcement officials or probate court.

§ 722.633. Failure to report suspected child abuse or neglect; damages; violation as misdemeanor; unauthorized dissemination of information as misdemeanor; civil liability; maintaining report or record required to be expunged as misdemeanor; false report of child abuse or neglect.

(1) A person who is required by this act to report an instance of suspected child abuse or neglect and who fails to do so is civilly liable for the damages proximately caused by the failure.

(2) A person who is required by this act to report an instance of suspected child abuse or neglect and who knowingly fails to do so is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(3) Except as provided in section 7, a person who disseminates, or who permits or encourages the dissemination of, information contained in the central registry and in reports and records made as provided in this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both, and is civilly liable for the damages proximately caused by the dissemination.
(4) A person who willfully maintains a report or record required to be expunged under section 7 is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(5) A person who intentionally makes a false report of child abuse or neglect under this act knowing that the report is false is guilty of a crime as follows:
   (a) If the child abuse or neglect reported would not constitute a crime or would constitute a misdemeanor if the report were true, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.
   (b) If the child abuse or neglect reported would constitute a felony if the report were true, the person is guilty of a felony punishable by the lesser of the following:
      (i) The penalty for the child abuse or neglect falsely reported.
      (ii) Imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

§ 722.634. Religious beliefs.

A parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent or guardian. This section shall not preclude a court from ordering the provision of medical services or nonmedical remedial services recognized by state law to a child where the child's health requires it nor does it abrogate the responsibility of a person required to report child abuse or neglect.

§ 750.145c. Definitions; child sexually abusive activity or material; penalties; possession of child sexually abusive material; expert testimony; defenses; acts of commercial film or photographic print processor; report to law enforcement agency by computer technician; reasonable availability of evidence to defendant; applicability and uniformity of section; enactment or enforcement of ordinance, rule, or regulation prohibited.
Mich. Comp. Laws Ann. § 750.145c

(1) As used in this section:
   (a) “Access” means to intentionally cause to be viewed by or transmitted to a person.
   (b) “Appears to include a child” means that the depiction appears to include, or conveys the impression that it includes, a person who is less than 18 years of age, and the depiction meets either of the following conditions:
      (i) It was created using a depiction of any part of an actual person under the age of 18.
      (ii) It was not created using a depiction of any part of an actual person under the age of 18, but all of the following apply to that depiction:
         (A) The average individual, applying contemporary community standards, would find the depiction, taken as a whole, appeals to the prurient interest.
         (B) The reasonable person would find the depiction, taken as a whole, lacks serious literary, artistic, political, or scientific value.
         (C) The depiction depicts or describes a listed sexual act in a patently offensive way.
   (c) “Child” means a person who is less than 18 years of age, subject to the affirmative defense created in subsection (6) regarding persons emancipated.
by operation of law.
(d) “Commercial film or photographic print processor” means a person or his or her employee who, for compensation, develops exposed photographic film into movie films, negatives, slides, or prints; makes prints from negatives or slides; or duplicates movie films or videotapes.
(e) “Computer technician” means a person who installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.
(f) “Contemporary community standards” means the customary limits of candor and decency in this state at or near the time of the alleged violation of this section.
(g) “Erotic fondling” means touching a person’s clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved. Erotic fondling does not include physical contact, even if affectionate, that is not for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.
(h) “Erotic nudity” means the lascivious exhibition of the genital, pubic, or rectal area of any person. As used in this subdivision, “lascivious” means wanton, lewd, and lustful and tending to produce voluptuous or lewd emotions.
(i) “Listed sexual act” means sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity.
(j) “Make” means to bring into existence by copying, shaping, changing, or combining material, and specifically includes, but is not limited to, intentionally creating a reproduction, copy, or print of child sexually abusive material, in whole or part. Make does not include the creation of an identical reproduction or copy of child sexually abusive material within the same digital storage device or the same piece of digital storage media.
(k) “Masturbation” means the real or simulated touching, rubbing, or otherwise stimulating of a person’s own clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, either by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.
(l) “Passive sexual involvement” means an act, real or simulated, that exposes another person to or draws another person’s attention to an act of sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, sexual excitement, or erotic nudity because of viewing any of these acts or because of the proximity of the act to that person, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.
(m) “Prurient interest” means a shameful or morbid interest in nudity, sex, or excretion.
(n) “Child sexually abusive activity” means a child engaging in a listed sexual act.
(o) “Child sexually abusive material” means any depiction, whether made or produced by electronic, mechanical, or other means, including a developed or undeveloped photograph, picture, film, slide, video, electronic visual image, computer diskette, computer or computer-generated image, or picture, or sound recording which is of a child or appears to include a child engaging in a listed sexual act; a book, magazine, computer, computer storage device, or other visual or print or printable medium containing such a photograph, picture, film, slide, video, electronic visual image, computer, or computer-generated image, or picture, or sound recording; or any reproduction, copy, or print of such a photograph, picture, film, slide, video,
electronic visual image, book, magazine, computer, or computer-generated image, or picture, other visual or print or printable medium, or sound recording.

(p) “Sadomasochistic abuse” means either of the following:
   (i) Flagellation or torture, real or simulated, for the purpose of real or simulated sexual stimulation or gratification, by or upon a person.
   (ii) The condition, real or simulated, of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(q) “Sexual excitement” means the condition, real or simulated, of human male or female genitals in a state of real or simulated overt sexual stimulation or arousal.

(r) “Sexual intercourse” means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal, or with an artificial genital.

(2) A person who persuades, induces, entices, coerces, causes, or knowingly allows a child to engage in a child sexually abusive activity for the purpose of producing any child sexually abusive material, or a person who arranges for, produces, makes, copies, reproduces, or finances, or a person who attempts or prepares or conspires to arrange for, produce, make, copy, reproduce, or finance any child sexually abusive activity or child sexually abusive material for personal, distributional, or other purposes is guilty of a felony, punishable by imprisonment for not more than 20 years, or a fine of not more than $100,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child.

(3) A person who distributes or promotes, or finances the distribution or promotion of, or receives for the purpose of distributing or promoting, or conspires, attempts, or prepares to distribute, receive, finance, or promote any child sexually abusive material or child sexually abusive activity is guilty of a felony punishable by imprisonment for not more than 7 years, or a fine of not more than $50,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. This subsection does not apply to the persons described in section 7 of 1984 PA 343, MCL 752.367.

(4) A person who knowingly possesses or knowingly seeks and accesses any child sexually abusive material is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $10,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. This subsection does not apply to any of the following:
   (a) A person described in section 7 of 1984 PA 343, MCL 752.367, a commercial film or photographic print processor acting under subsection (8), or a computer technician acting under subsection (9).
   (b) A police officer acting within the scope of his or her duties as a police officer.
   (c) An employee or contract agent of the department of social services acting within the scope of his or her duties as an employee or contract agent.
(d) A judicial officer or judicial employee acting within the scope of his or her duties as a judicial officer or judicial employee.
(e) A party or witness in a criminal or civil proceeding acting within the scope of that criminal or civil proceeding.
(f) A physician, psychologist, limited license psychologist, professional counselor, or registered nurse licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, acting within the scope of practice for which he or she is licensed.
(g) A social worker registered in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, acting within the scope of practice for which he or she is registered.

(5) Expert testimony as to the age of the child used in a child sexually abusive material or a child sexually abusive activity is admissible as evidence in court and may be a legitimate basis for determining age, if age is not otherwise proven.

(6) It is an affirmative defense to a prosecution under this section that the alleged child is a person who is emancipated by operation of law under section 4(2) of 1968 PA 293, MCL 722.4, as proven by a preponderance of the evidence.

(7) If a defendant in a prosecution under this section proposes to offer in his or her defense evidence to establish that a depiction that appears to include a child was not, in fact, created using a depiction of any part of an actual person under the age of 18, the defendant shall at the time of the arraignment on the information or within 15 days after arraignment but not less than 10 days before the trial of the case, or at such other time as the court directs, file and serve upon the prosecuting attorney of record a notice in writing of his or her intention to offer that defense. The notice shall contain, as particularly as is known to the defendant or the defendant's attorney, the names of witnesses to be called in behalf of the defendant to establish that defense. The defendant's notice shall include specific information as to the facts that establish that the depiction was not, in fact, created using a depiction of any part of an actual person under the age of 18. Failure to file a timely notice in conformance with this subsection precludes a defendant from offering this defense.

(8) If a commercial film or photographic print processor reports to a law enforcement agency having jurisdiction his or her knowledge or observation, within the scope of his or her professional capacity or employment, of a film, photograph, movie film, videotape, negative, or slide depicting a person that the processor has reason to know or reason to believe is a child engaged in a listed sexual act; furnishes a copy of the film, photograph, movie film, videotape, negative, or slide to a law enforcement agency having jurisdiction; or keeps the film, photograph, movie film, videotape, negative, or slide according to the law enforcement agency's instructions, both of the following shall apply:
(a) The identity of the processor shall be confidential, subject to disclosure only with his or her consent or by judicial process.
(b) If the processor acted in good faith, he or she shall be immune from civil liability that might otherwise be incurred by his or her actions. This immunity extends only to acts described in this subsection.

(9) If a computer technician reports to a law enforcement agency having jurisdiction his or her knowledge or observation, within the scope of his or her professional capacity or employment, of an electronic visual image, computer-generated image or picture or sound recording depicting a person that the computer technician has reason to know or reason to believe is a child engaged in a listed sexual act; furnishes a copy of that image, picture, or sound recording to the law enforcement agency; or keeps the image, picture, or sound recording according to the law enforcement agency's instructions, both of the following apply:
(a) The identity of the computer technician shall be confidential, subject to
disclosure only with his or her consent or by judicial process.

(b) If the computer technician acted in good faith, he or she is immune from civil liability that might otherwise be incurred by his or her actions. This immunity extends only to acts described in this subsection.

(10) In any criminal proceeding regarding an alleged violation or attempted violation of this section, the court shall deny any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any photographic or other pictorial evidence of a child engaging in a listed sexual act if the prosecuting attorney makes that evidence reasonably available to the defendant. Evidence is considered to be reasonably available to the defendant under this subsection if the prosecuting attorney provides an opportunity to the defendant and his or her attorney, and any person the defendant may seek to qualify as an expert witness at trial, to inspect, view, and examine that evidence at a facility approved by the prosecuting attorney.

(11) This section applies uniformly throughout the state and all political subdivisions and municipalities in the state.

(12) A local municipality or political subdivision shall not enact any ordinance or enforce any existing ordinance, rule, or regulation governing child sexually abusive activity or child sexually abusive material as defined by this section.
§ 146A.025. Complementary and alternative healthcare; maltreatment of minors.
Minn. Stat. Ann. § 146A.025

Nothing in this chapter shall restrict the ability of a local welfare agency, local law enforcement agency, the commissioner of human services, or the state to take action regarding the maltreatment of minors under section 609.378 or 626.556. A parent who obtains complementary and alternative health care for the parent's minor child is not relieved of the duty to seek necessary medical care consistent with the requirements of sections 609.378 and 626.556. A complementary or alternative health care practitioner who is providing services to a child who is not receiving necessary medical care must make a report under section 626.556. A complementary or alternative health care provider is a mandated reporter under section 626.556, subdivision 3.

§ 245A.145. Child care program reporting notification.

1. Policies and procedures.
(a) All licensed child care providers must develop policies and procedures for reporting suspected child maltreatment that fulfill the requirements in section 626.556 and must develop policies and procedures for reporting complaints about the operation of a child care program. The policies and procedures must include the telephone numbers of the local county child protection agency for reporting suspected maltreatment; the county licensing agency for family and group family child care providers; and the state licensing agency for child care centers.

(b) The policies and procedures required in paragraph (a) must:
(1) be provided to the parents of all children at the time of enrollment in the child care program; and
(2) be made available upon request.

2. Licensing agency phone number displayed. By July 1, 2002, a new or renewed child care license must include a statement that informs parents who have concerns about their child's care that they may call the licensing agency. The commissioner shall print the telephone number for the licensing agency in bold and large font on the license issued to child care providers.

§ 609.507. Falsely reporting child abuse.

A person is guilty of a misdemeanor who:

(1) informs another person that a person has committed sexual abuse, physical abuse, or neglect of a child, as defined in section 626.556, subdivision 2;
(2) knows that the allegation is false or is without reason to believe that the alleged abuser committed the abuse or neglect; and
(3) has the intent that the information influence a child custody hearing.

§ 626.556. Reporting of maltreatment of minors.
Minn. Stat. Ann. § 626.556

1. Public policy.
(a) The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through
physical abuse, neglect, or sexual abuse. While it is recognized that most parents want to keep their children safe, sometimes circumstances or conditions interfere with their ability to do so. When this occurs, the health and safety of the children must be of paramount concern. Intervention and prevention efforts must address immediate concerns for child safety and the ongoing risk of abuse or neglect and should engage the protective capacities of families. In furtherance of this public policy, it is the intent of the legislature under this section to:

(1) protect children and promote child safety;
(2) strengthen the family;
(3) make the home, school, and community safe for children by promoting responsible child care in all settings; and
(4) provide, when necessary, a safe temporary or permanent home environment for physically or sexually abused or neglected children.

(b) In addition, it is the policy of this state to:

(1) require the reporting of neglect or physical or sexual abuse of children in the home, school, and community settings;
(2) provide for the voluntary reporting of abuse or neglect of children;
(3) require an investigation when the report alleges sexual abuse or substantial child endangerment;
(4) provide a family assessment, if appropriate, when the report does not allege sexual abuse or substantial child endangerment; and
(5) provide protective, family support, and family preservation services when needed in appropriate cases.

2. Definitions. As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) “Accidental” means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:

1. is not likely to occur and could not have been prevented by exercise of due care; and
2. if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

(b) “Commissioner” means the commissioner of human services.

(c) “Facility” means:

1. a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245D;
2. a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or
3. a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a.

(d) “Family assessment” means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege sexual abuse or substantial child endangerment. Family assessment does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members
and the risk of subsequent maltreatment.

(e) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve sexual abuse or substantial child endangerment, and for reports of maltreatment in facilities required to be licensed under chapter 245A or 245D; under sections 144.50 to 144.58 and 241.021; in a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E; or in a nonlicensed personal care provider association as defined in section 256B.0625, subdivision 19a.

(f) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(g) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (9), other than by accidental means:

1. failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;
2. failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
3. failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;
4. failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;
5. nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;
6. prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance, or the presence of a fetal alcohol spectrum disorder;
7. "medical neglect" as defined in section 260C.007, subdivision 6,
clause (5);  
(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child’s basic needs and safety; or  
(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child’s behavior, emotional response, or cognition that is not within the normal range for the child’s age and stage of development, with due regard to the child’s culture.

(h) “Nonmaltreatment mistake” means:
(1) at the time of the incident, the individual was performing duties identified in the center’s child care program plan required under Minnesota Rules, part 9503.0045;  
(2) the individual has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years;  
(3) the individual has not been determined to have committed a similar nonmaltreatment mistake under this paragraph for at least four years;  
(4) any injury to a child resulting from the incident, if treated, is treated only with remedies that are available over the counter, whether ordered by a medical professional or not; and  
(5) except for the period when the incident occurred, the facility and the individual providing services were both in compliance with all licensing requirements relevant to the incident.

This definition only applies to child care centers licensed under Minnesota Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated maltreatment by the individual, the commissioner of human services shall determine that a nonmaltreatment mistake was made by the individual.

(i) “Operator” means an operator or agency as defined in section 245A.02.

(j) “Person responsible for the child’s care” means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(k) “Physical abuse” means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child’s care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child’s history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 125A.0942 or 245.825. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following:
(1) throwing, kicking, burning, biting, or cutting a child;
(2) striking a child with a closed fist;
(3) shaking a child under age three;
(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;
(5) unreasonable interference with a child's breathing;
(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
(7) striking a child under age one on the face or head;
(8) striking a child who is at least age one but under age four on the face or head, which results in an injury;
(9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
(10) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or
(11) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

(l) “Practice of social services,” for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(m) “Report” means any communication received by the local welfare agency, police department, county sheriff, or agency responsible for child protection pursuant to this section that describes neglect or physical or sexual abuse of a child and contains sufficient content to identify the child and any person believed to be responsible for the neglect or abuse, if known.

(n) “Sexual abuse” means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation which requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

(o) “Substantial child endangerment” means a person responsible for a child's care, by act or omission, commits or attempts to commit an act against a child under their care that constitutes any of the following:
   (1) egregious harm as defined in section 260C.007, subdivision 14;
   (2) abandonment under section 260C.301, subdivision 2;
   (3) neglect as defined in paragraph (g), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been
(p) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (j), clause (1), who has:

1. subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;
2. been found to be palpably unfit under section 260C.301, subdivision 1, paragraph (b), clause (4), or a similar law of another jurisdiction;
3. committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or
4. committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction.

A child is the subject of a report of threatened injury when the responsible social services agency receives birth match data under paragraph (q) from the Department of Human Services.

(q) Upon receiving data under section 144.225, subdivision 2b, contained in a birth record or recognition of parentage identifying a child who is subject to threatened injury under paragraph (p), the Department of Human Services shall send the data to the responsible social services agency. The data is known as "birth match" data. Unless the responsible social services agency has already begun an investigation or assessment of the report due to the birth of the child or execution of the recognition of parentage and the parent's previous history with child protection, the agency shall accept the birth match data as a report under this section. The agency may use either a family assessment or investigation to determine whether the child is safe. All of the provisions of this section apply. If the child is determined to be safe, the agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, clause (16), in order to deliver needed services.
agency and the county attorney shall take appropriate action as required under section 260C.503, subdivision 2.

(r) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety.

3. Persons mandated to report; persons voluntarily reporting.

(a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department if the person is:

(1) a professional or professional’s delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, correctional supervision, probation and correctional services, or law enforcement; or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245D; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner of education. Section 13.03, subdivision 4, applies to data received by the commissioner of education from a licensing entity.

(d) Notification requirements under subdivision 10 apply to all reports received under this section.

(e) For purposes of this section, “immediately” means as soon as possible but in no event longer than 24 hours.

3a. Report of deprivation of parental rights or kidnapping. A person mandated to report under subdivision 3, who knows or has reason to know of a violation of section 609.25 or 609.26, shall report the information to the local police department or the county sheriff. Receipt by a local welfare agency of a report or notification of a report...
of a violation of section 609.25 or 609.26 shall not be construed to invoke the duties of subdivision 10, 10a, or 10b.

3b. Agency responsible for assessing or investigating reports of maltreatment. The Department of Education is the agency responsible for assessing or investigating allegations of child maltreatment in schools as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E.

3c. Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.
   (a) The county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, legally unlicensed child care, juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county, and reports involving children served by an unlicensed personal care provider organization under section 256B.0659. Copies of findings related to personal care provider organizations under section 256B.0659 must be forwarded to the Department of Human Services provider enrollment.
   (b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245D, except for child foster care and family child care.
   (c) The Department of Health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58 and 144A.46.

3d. Authority to interview. The agency responsible for assessing or investigating reports of child maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing safety and risk to the child, and formulating a plan.

3e. Agency responsible for assessing or investigating reports of sexual abuse. The local welfare agency is the agency responsible for investigating allegations of sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual functioning within the family unit as a person responsible for the child's care, or a person with a significant relationship to the child if that person resides in the child's household. Effective May 29, 2017, the local welfare agency is also responsible for investigating when a child is identified as a victim of sex trafficking.

3f. Law enforcement agency responsible for investigating maltreatment. The local law enforcement agency has responsibility for investigating any report of child maltreatment if a violation of a criminal statute is alleged. Law enforcement and the responsible agency must coordinate their investigations or assessments as required under subdivision 10.

4. Immunity from liability.
   (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:
      (1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;
      (2) any person with responsibility for performing duties under this section or supervisor employed by a local welfare agency, the commissioner of an agency responsible for operating or supervising a licensed or unlicensed day care
facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a, complying with subdivision 10d; and (3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency, the Department of Education, or a local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under section 626.5561.

(b) A person who is a supervisor or person with responsibility for performing duties under this section employed by a local welfare agency, the commissioner of human services, or the commissioner of education complying with subdivisions 10 and 11 or section 626.5561 or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j).

(c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

4a. Retaliation prohibited.

(a) An employer of any person required to make reports under subdivision 3 shall not retaliate against the person for reporting in good faith abuse or neglect pursuant to this section, or against a child with respect to whom a report is made, because of the report.

(b) The employer of any person required to report under subdivision 3 who retaliates against the person because of a report of abuse or neglect is liable to that person for actual damages and, in addition, a penalty up to $10,000.

(c) There shall be a rebuttable presumption that any adverse action within 90 days of a report is retaliatory. For purposes of this paragraph, the term “adverse action” refers to action taken by an employer of a person required to report under subdivision 3 which is involved in a report against the person making the report or the child with respect to whom the report was made because of the report, and includes, but is not limited to:

(1) discharge, suspension, termination, or transfer from the facility, institution, school, or agency;
(2) discharge from or termination of employment;
(3) demotion or reduction in remuneration for services; or
(4) restriction or prohibition of access to the facility, institution, school, agency, or persons affiliated with it.

5. Malicious and reckless reports. Any person who knowingly or recklessly makes a false report under the provisions of this section shall be liable in a civil suit for any
actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, plus costs and reasonable attorney fees.

6. Failure to report.
   (a) A person mandated by this section to report who knows or has reason to believe that a child is neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor.

   (b) A person mandated by this section to report who knows or has reason to believe that two or more children not related to the perpetrator have been physically or sexually abused, as defined in subdivision 2, by the same perpetrator within the preceding ten years, and fails to report is guilty of a gross misdemeanor.

   (c) A parent, guardian, or caretaker who knows or reasonably should know that the child's health is in serious danger and who fails to report as required by subdivision 2, paragraph (g), is guilty of a gross misdemeanor if the child suffers substantial or great bodily harm because of the lack of medical care. If the child dies because of the lack of medical care, the person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both. The provision in section 609.378, subdivision 1, paragraph (a), clause (1), providing that a parent, guardian, or caretaker may, in good faith, select and depend on spiritual means or prayer for treatment or care of a child, does not exempt a parent, guardian, or caretaker from the duty to report under this subdivision.

6a. Failure to notify. If a local welfare agency receives a report under subdivision 3, paragraph (a) or (b), and fails to notify the local police department or county sheriff as required by subdivision 10, the person within the agency who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees. If a local police department or a county sheriff receives a report under subdivision 3, paragraph (a) or (b), and fails to notify the local welfare agency as required by subdivision 10, the person within the police department or county sheriff's office who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees.

7. Report; information provided to parent; reporter.
   (a) An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency.

   (b) The local welfare agency shall determine if the report is to be screened in or out as soon as possible but in no event longer than 24 hours after the report is received. When determining whether a report will be screened in or out, the agency receiving the report must consider, when relevant, all previous history, including reports that were screened out. The agency may communicate with treating professionals and individuals specified under subdivision 10, paragraph (i), clause (3), item (iii).

   (c) Any report shall be of sufficient content to identify the child, any person
believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. The local welfare agency or agency responsible for assessing or investigating the report shall accept a report made under subdivision 3 notwithstanding refusal by a reporter to provide the reporter's name or address as long as the report is otherwise sufficient under this paragraph. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

(d) When requested, the agency responsible for assessing or investigating a report shall inform the reporter within ten days after the report was made, either orally or in writing, whether the report was accepted or not. If the responsible agency determines the report does not constitute a report under this section, the agency shall advise the reporter the report was screened out. Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) Reports that are screened out must be maintained in accordance with subdivision 11c, paragraph (a).

(f) A local welfare agency or agency responsible for investigating or assessing a report may use a screened-out report for making an offer of social services to the subjects of the screened-out report. A local welfare agency or agency responsible for evaluating a report alleging maltreatment of a child shall consider prior reports, including screened-out reports, to determine whether an investigation or family assessment must be conducted.

(g) Notwithstanding paragraph (a), the commissioner of education must inform the parent, guardian, or legal custodian of the child who is the subject of a report of alleged maltreatment in a school facility within ten days of receiving the report, either orally or in writing, whether the commissioner is assessing or investigating the report of alleged maltreatment.

(h) Regardless of whether a report is made under this subdivision, as soon as practicable after a school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school shall inform the parent, legal guardian, or custodian of the child that an incident has occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.

(i) A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.

7a. Guidance for screening reports.
(a) Child protection staff, supervisors, and others involved in child protection screening shall follow the guidance provided in the child maltreatment screening guidelines issued by the commissioner of human services and, when notified by the commissioner, shall immediately implement updated procedures and protocols.

(b) Any modifications to the screening guidelines must be preapproved by the commissioner of human services and must not be less protective of children than is mandated by statute. The county agency must consult with the county attorney before proposing modifications to the commissioner. The guidelines may provide additional protections for children but must not limit reports that are screened in or provide additional limits on consideration of reports that were screened out in making screening determinations.

8. Evidence not privileged. No evidence relating to the neglect or abuse of a child or to any prior incidents of neglect or abuse involving any of the same persons accused of neglect or abuse shall be excluded in any proceeding arising out of the alleged neglect or physical or sexual abuse on the grounds of privilege set forth in section 595.02, subdivision 1, paragraph (a), (d), or (g).

9. Mandatory reporting to medical examiner or coroner. When a person required to report under the provisions of subdivision 3 knows or has reason to believe a child has died as a result of neglect or physical or sexual abuse, the person shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency, police department, or county sheriff. Medical examiners or coroners shall notify the local welfare agency or police department or county sheriff in instances in which they believe that the child has died as a result of neglect or physical or sexual abuse. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff and the local welfare agency. If the child was receiving services or treatment for mental illness, developmentally disabled, chemical dependency, or emotional disturbance from an agency, facility, or program as defined in section 245.91, the medical examiner or coroner shall also notify and report findings to the ombudsman established under sections 245.91 to 245.97.

10. Duties of local welfare agency and local law enforcement agency upon receipt of report; mandatory notification between police or sheriff and agency.  
(a) The police department or the county sheriff shall immediately notify the local welfare agency or agency responsible for child protection reports under this section orally and in writing when a report is received. The local welfare agency or agency responsible for child protection reports shall immediately notify the local police department or the county sheriff orally and in writing when a report is received. The county sheriff and the head of every local welfare agency, agency responsible for child protection reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph are carried out. When the alleged maltreatment occurred on tribal land, the local welfare agency or agency responsible for child protection reports and the local police department or the county sheriff shall immediately notify the tribe's social services agency and tribal law enforcement orally and in writing when a report is received.

(b) Upon receipt of a report, the local welfare agency shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for child maltreatment. The local welfare agency:

(1) shall conduct an investigation on reports involving sexual abuse
or substantial child endangerment;
(2) shall begin an immediate investigation if, at any time when it is using a family assessment response, it determines that there is reason to believe that sexual abuse or substantial child endangerment or a serious threat to the child's safety exists;
(3) may conduct a family assessment for reports that do not allege sexual abuse or substantial child endangerment. In determining that a family assessment is appropriate, the local welfare agency may consider issues of child safety, parental cooperation, and the need for an immediate response;
(4) may conduct a family assessment on a report that was initially screened and assigned for an investigation. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and notify the local law enforcement agency if the local law enforcement agency is conducting a joint investigation; and
(5) shall provide immediate notice, according to section 260.761, subdivision 2, to an Indian child's tribe when the agency has reason to believe the family assessment or investigation may involve an Indian child. For purposes of this clause, "immediate notice" means notice provided within 24 hours.
If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, or sexual abuse by a person with a significant relationship to the child when that person resides in the child's household or by a sibling, the local welfare agency shall immediately conduct a family assessment or investigation as identified in clauses (1) to (4). In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic violence and offer services for purposes of preventing future child maltreatment, safeguarding and enhancing the welfare of the abused or neglected minor, and supporting and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation or assessment. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.
If the family assessment or investigation indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615.

(c) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to
its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97. The commissioner of education shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding a child defined as a client in section 245.91 that maltreatment occurred at a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E.

(d) Authority of the local welfare agency responsible for assessing or investigating the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. For family assessments, it is the preferred practice to request a parent or guardian's permission to interview the child prior to conducting the child interview, unless doing so would compromise the safety assessment. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(e) When the local welfare, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.
Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(f) Where the alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(g) Before making an order under paragraph (f), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(h) The commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(i) The local welfare agency responsible for conducting a family assessment or investigation shall collect available and relevant information to determine child safety, risk of subsequent child maltreatment, and family strengths and needs and share not public information with an Indian's tribal social services agency without violating any law of the state that may otherwise impose duties of confidentiality on the local welfare agency in order to implement the tribal state agreement. The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information.
related to the alleged maltreatment. The local welfare agency or the agency responsible for investigating the report may make a determination of no maltreatment early in an investigation, and close the case and retain immunity, if the collected information shows no basis for a full investigation. Information relevant to the assessment or investigation must be asked for, and may include:

1. The child's sex and age; prior reports of maltreatment, including any maltreatment reports that were screened out and not accepted for assessment or investigation; information relating to developmental functioning; credibility of the child's statement; and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

2. The alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

3. Collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

4. Information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access to medical data and records for purposes of clause 3. Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11. Data of the commissioner of education collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (c), the commissioner of education shall collect investigative reports and data that are relevant to a report of maltreatment and are from local law enforcement and the school facility.

(j) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the

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child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child. The face-to-face contact with the child and primary caregiver shall occur immediately if sexual abuse or substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(k) When conducting an investigation, the local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. For investigations only, the following interviewing methods and procedures must be used whenever possible when collecting information:

1. audio recordings of all interviews with witnesses and collateral sources; and
2. in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(l) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (c), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (j) and (k), and subdivision 3d, except that the requirement for face-to-face observation of the child and face-to-face interview of the alleged offender is to occur in the initial stages of the assessment or investigation provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (j) and (k), and subdivision 3d.

10a. Law enforcement agency responsibility for investigation; welfare agency reliance on law enforcement fact-finding; welfare agency offer of services.

(a) If the report alleges neglect, physical abuse, or sexual abuse by a person who is not a parent, guardian, sibling, person responsible for the child's care functioning within the family unit, or a person who lives in the child's household and who has a significant relationship to the child, in a setting other than a facility as defined in subdivision 2, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged abuse or neglect if a violation of a criminal statute is alleged.

(b) The local agency may rely on the fact-finding efforts of the law enforcement investigation conducted under this subdivision to make a determination whether or not threatened injury or other maltreatment has occurred under subdivision 2 if an alleged offender has minor children or lives with minors.

(c) If a child is the victim of an alleged crime under paragraph (a), the law enforcement agency shall immediately notify the local welfare agency, which shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the abused or neglected minor.

10b. Duties of commissioner; neglect or abuse in facility.
(a) This section applies to the commissioners of human services, health, and education. The commissioner of the agency responsible for assessing or investigating the report shall immediately assess or investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in that facility, or has been so neglected or abused, or been the victim of maltreatment in a facility by an individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner of the agency responsible for assessing or investigating the report shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner of the agency responsible for assessing or investigating the report or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j). In conducting assessments or investigations under this subdivision, the commissioner of education shall obtain access to reports and investigative data that are relevant to a report of maltreatment and are in the possession of a school facility as defined in subdivision 2, paragraph (c), notwithstanding the classification of the data as educational or personnel data under chapter 13. This includes, but is not limited to, school investigative reports, information concerning the conduct of school personnel alleged to have committed maltreatment of students, information about witnesses, and any protective or corrective action taken by the school facility regarding the school personnel alleged to have committed maltreatment.

(d) The commissioner may request assistance from the local social services agency.
10c. Duties of local social service agency upon receipt of report of medical neglect. If the report alleges medical neglect as defined in section 260C.007, subdivision 6, clause (5), the local welfare agency shall, in addition to its other duties under this section, immediately consult with designated hospital staff and with the parents of the infant to verify that appropriate nutrition, hydration, and medication are being provided; and shall immediately secure an independent medical review of the infant’s medical charts and records and, if necessary, seek a court order for an independent medical examination of the infant. If the review or examination leads to a conclusion of medical neglect, the agency shall intervene on behalf of the infant by initiating legal proceedings under section 260C.141 and by filing an expedited motion to prevent the withholding of medically indicated treatment.

10d. Notification of neglect or abuse in facility.

(a) When a report is received that alleges neglect, physical abuse, sexual abuse, or maltreatment of a child while in the care of a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed according to sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 245D, or a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, sexually abused, or the victim of maltreatment of a child in the facility: the name of the facility; the fact that a report alleging neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has been received; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has been received; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; that the agency is conducting an assessment or investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has occurred. In determining whether to exercise this authority, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the number of children allegedly neglected, physically abused, sexually abused, or victims of maltreatment of a child in the facility; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner of the agency responsible for assessing or investigating the report or local welfare agency has completed its investigation, every parent, guardian, or legal custodian previously notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the investigator’s name; a summary of the investigation findings; a statement whether maltreatment was found; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that
protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. If maltreatment is determined to exist, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility who had contact with the individual responsible for the maltreatment. When the facility is the responsible party for maltreatment, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child who received services in the population of the facility where the maltreatment occurred. This notification must be provided to the parent, guardian, or legal custodian of each child receiving services from the time the maltreatment occurred until either the individual responsible for maltreatment is no longer in contact with a child or children in the facility or the conclusion of the investigation. In the case of maltreatment within a school facility, as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E, the commissioner of education need not provide notification to parents, guardians, or legal custodians of each child in the facility, but shall, within ten days after the investigation is completed, provide written notification to the parent, guardian, or legal custodian of any student alleged to have been maltreated. The commissioner of education may notify the parent, guardian, or legal custodian of any student involved as a witness to alleged maltreatment.

10e. Determinations.

(a) The local welfare agency shall conclude the family assessment or the investigation within 45 days of the receipt of a report. The conclusion of the assessment or investigation may be extended to permit the completion of a criminal investigation or the receipt of expert information requested within 45 days of the receipt of the report.

(b) After conducting a family assessment, the local welfare agency shall determine whether services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment.

(c) After conducting an investigation, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed. No determination of maltreatment shall be made when the alleged perpetrator is a child under the age of ten.

(d) If the commissioner of education conducts an assessment or investigation, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment has occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases, the commissioner shall inform the school board or employer that a report was received, the subject of the report, the date of the initial report, the category of maltreatment alleged as defined in paragraph (f), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination.

(e) When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible, or whether both the facility and the individual were responsible for the maltreatment using the mitigating factors in
paragraph (i). Determinations under this subdivision must be made based on a preponderance of the evidence and are private data on individuals or nonpublic data as maintained by the commissioner of education.

(f) For the purposes of this subdivision, “maltreatment” means any of the following acts or omissions:

1. physical abuse as defined in subdivision 2, paragraph (k);
2. neglect as defined in subdivision 2, paragraph (g);
3. sexual abuse as defined in subdivision 2, paragraph (n);
4. mental injury as defined in subdivision 2, paragraph (f); or
5. maltreatment of a child in a facility as defined in subdivision 2, paragraph (c).

(g) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(h) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(i) When determining whether the facility or individual is the responsible party, or whether both the facility and the individual are responsible for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

1. whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;
2. comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and
3. whether the facility or individual followed professional standards in exercising professional judgment.

The evaluation of the facility's responsibility under clause (2) must not be based on the completeness of the risk assessment or risk reduction plan required under section 245A.66, but must be based on the facility's compliance with the regulatory standards for policies and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota Rules.
(j) Notwithstanding paragraph (i), when maltreatment is determined to have been committed by an individual who is also the facility license holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing actions under sections 245A.06 or 245A.07 apply.

10f. Notice of determinations. Within ten working days of the conclusion of a family assessment, the local welfare agency shall notify the parent or guardian of the child of the need for services to address child safety concerns or significant risk of subsequent child maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed. Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for investigating the report shall notify the parent or guardian of the child, the person determined to be maltreating the child, and, if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. When the investigation involves a child foster care setting that is monitored by a private licensing agency under section 245A.16, the local welfare agency responsible for investigating the report shall notify the private licensing agency of the determination and shall provide a summary of the specific reasons for the determination. The notice to the private licensing agency must include identifying private data, but not the identity of the reporter of maltreatment. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal or review rights under this section. The notice must also state that a finding of maltreatment may result in denial of a license application or background study disqualification under chapter 245C related to employment or services that are licensed by the Department of Human Services under chapter 245A, the Department of Health under chapter 144 or 144A, the Department of Corrections under section 241.021, and from providing services related to an unlicensed personal care provider organization under chapter 256B.

10g. Interstate data exchange. All reports and records created, collected, or maintained under this section by a local social service agency or law enforcement agency may be disclosed to a local social service or other child welfare agency of another state when the agency certifies that:

(1) the reports and records are necessary in order to conduct an investigation of actions that would qualify as sexual abuse, physical abuse, or neglect under this section; and

(2) the reports and records will be used only for purposes of a child protection assessment or investigation and will not be further disclosed to any other person or agency.

The local social service agency or law enforcement agency in this state shall keep a record of all records or reports disclosed pursuant to this subdivision and of any agency to which the records or reports are disclosed. If in any case records or reports are disclosed before a determination is made under subdivision 10e, or a disposition of any criminal proceedings is reached, the local social service agency or law enforcement agency in this state shall forward the determination or disposition to any agency that has received any report or record under this subdivision.

10h. Child abuse data; release to family court services. The responsible authority or its designee of a local welfare agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual
abuse, physical abuse, or neglect under this section to a court services agency if:

(1) the court services agency has an active case involving a common client or clients who are the subject of the data; and

(2) the data are necessary for the court services agency to effectively process the court services' case, including investigating or performing other duties relating to the case required by law.

The data disclosed under this subdivision may be used only for purposes of the active court services case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.

§ 626.5561. Reporting of prenatal exposure to controlled substances.
Minn. Stat. Ann. § 626.5561

1. Reports required.

(a) Except as provided in paragraph (b), a person mandated to report under section 626.556, subdivision 3, shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.

(b) A health care professional or a social service professional who is mandated to report under section 626.556, subdivision 3, is exempt from reporting under paragraph (a) a woman's use or consumption of tetrahydrocannabinol or alcoholic beverages during pregnancy if the professional is providing the woman with prenatal care or other healthcare services.

(c) Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.

(d) An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the local welfare agency. Any report shall be of sufficient content to identify the pregnant woman, the nature and extent of the use, if known, and the name and address of the reporter. The local welfare agency shall accept a report made under paragraph (c) notwithstanding refusal by a voluntary reporter to provide the reporter's name or address as long as the report is otherwise sufficient.

(e) For purposes of this section, "prenatal care" means the comprehensive package of medical and psychological support provided throughout the pregnancy.

2. Local welfare agency. Upon receipt of a report required under subdivision 1, the local welfare agency shall immediately conduct an appropriate assessment and offer services indicated under the circumstances. Services offered may include, but are not limited to, a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care. The local welfare agency may also take any appropriate action under chapter 253B, including seeking an emergency admission under section 253B.05. The local welfare agency shall seek an emergency admission under section 253B.05 if the pregnant woman refuses recommended voluntary services or fails recommended treatment.
3. Related provisions. Reports under this section are governed by section 626.556, subdivisions 4, 4a, 5, 6, 8, and 11.

4. Controlled substances. For purposes of this section and section 626.5562, “controlled substance” means a controlled substance listed in section 253B.02, subdivision 2.

5. Immunity.
   (a) A person making a voluntary or mandated report under subdivision 1 or assisting in an assessment under subdivision 2 is immune from any civil or criminal liability that otherwise might result from the person’s actions, if the person is acting in good faith.
   (b) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

§ 626.5562. Toxicology tests required.
Minn. Stat. Ann. § 626.5562

1. Test; report. A physician shall administer a toxicology test to a pregnant woman under the physician's care or to a woman under the physician's care within eight hours after delivery to determine whether there is evidence that she has ingested a controlled substance, if the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose. If the test results are positive, the physician shall report the results under section 626.5561. A negative test result does not eliminate the obligation to report under section 626.5561, if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

2. Newborns. A physician shall administer to each newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance, if the physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy. If the test results are positive, the physician shall report the results as neglect under section 626.556. A negative test result does not eliminate the obligation to report under section 626.556 if other medical evidence of prenatal exposure to a controlled substance is present.

3. Report to Department of Health. Physicians shall report to the Department of Health the results of tests performed under subdivisions 1 and 2. A report shall be made on the certificate of live birth medical supplement or the report of fetal death medical supplement filed on or after February 1, 1991. The reports are medical data under section 13.384.

4. Immunity from liability. Any physician or other medical personnel administering a toxicology test to determine the presence of a controlled substance in a pregnant woman, in a woman within eight hours after delivery, or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test, if the physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with an established protocol and reasonable medical practice.

5. Reliability of tests. A positive test result reported under this section must be obtained from a confirmatory test performed by a drug testing laboratory which meets the requirements of section 181.953, and must be performed according to the requirements for performance of confirmatory tests imposed by the licensing, accreditation, or certification program listed in section 181.953, subdivision 1, in
which the laboratory participates.

§ 626.559. Specialized training and education required.
Minn. Stat. Ann. § 626.559

1. Job classification; continuing education. The commissioner of human services, for employees subject to the Minnesota Merit System, and directors of county personnel systems, for counties not subject to the Minnesota Merit System, shall establish a job classification consisting exclusively of persons with the specialized knowledge, skills, and experience required to satisfactorily perform child protection duties pursuant to section 626.556, subdivisions 10, 10a, and 10b.

All child protection workers or social services staff having responsibility for child protective duties under section 626.556 shall receive 15 hours of continuing education or in-service training each year relevant to providing child protective services. The local social service agency shall maintain a record of training completed by each employee having responsibility for performing child protective duties.

1a. Child protection worker foundation education. Any individual who seeks employment as a child protection worker after the commissioner of human services has implemented the foundation training program developed under section 626.5591, subdivision 2, must complete competency-based foundation training during their first six months of employment as a child protection worker.

1b. Background studies.
   (a) County employees hired on or after July 1, 2015, who have responsibility for child protection duties or current county employees who are assigned new child protection duties on or after July 1, 2015, are required to undergo a background study. A county may complete these background studies by either:
      (1) use of the Department of Human Services NetStudy 2.0 system according to sections 245C.03 and 245C.10; or
      (2) an alternative process defined by the county.
   (b) County social services agencies and local welfare agencies must initiate background studies before an individual begins a position allowing direct contact with persons served by the agency.

2. Joint training. The commissioners of human services and public safety shall cooperate in the development of a joint program for training child abuse services professionals in the appropriate techniques for child abuse assessment and investigation. The program shall include but need not be limited to the following areas:
   (1) the public policy goals of the state as set forth in section 260C.001 and the role of the assessment or investigation in meeting these goals;
   (2) the special duties of child protection workers and law enforcement officers under section 626.556;
   (3) the appropriate methods for directing and managing affiliated professionals who may be utilized in providing protective services and strengthening family ties;
   (4) the appropriate methods for interviewing alleged victims of child abuse and other minors in the course of performing an assessment or an investigation;
   (5) the dynamics of child abuse and neglect within family systems and the appropriate methods for interviewing parents in the course of the assessment or investigation, including training in recognizing cases in which one of the parents is a victim of domestic abuse and in need of special legal or medical services;
(6) the legal, evidentiary considerations that may be relevant to the conduct of an assessment or an investigation;
(7) the circumstances under which it is appropriate to remove the alleged abuser or the alleged victim from the home;
(8) the protective social services that are available to protect alleged victims from further abuse, to prevent child abuse and domestic abuse, and to preserve the family unit, and training in the preparation of case plans to coordinate services for the alleged child abuse victim with services for any parents who are victims of domestic abuse;
(9) the methods by which child protection workers and law enforcement workers cooperate in conducting assessments and investigations in order to avoid duplication of efforts; and
(10) appropriate methods for interviewing alleged victims of child abuse and conducting investigations in cases where the alleged victim is developmentally, physically, or mentally disabled.

3. Priority training. The commissioners of human services and public safety shall provide the program courses described in subdivision 2 at convenient times and locations in the state. The commissioners shall give training priority in the program areas cited in subdivision 2 to persons currently performing assessments and investigations pursuant to section 626.556, subdivisions 10, 10a, and 10b.

4. [Repealed, 1996 c 310 s 1]

5. Revenue. The commissioner of human services shall add the following funds to the funds appropriated under section 626.5591, subdivision 2, to develop and support training:

(a) The commissioner of human services shall submit claims for federal reimbursement earned through the activities and services supported through Department of Human Services child protection or child welfare training funds. Federal revenue earned must be used to improve and expand training services by the department. The department expenditures eligible for federal reimbursement under this section must not be made from federal funds or funds used to match other federal funds.

(b) Each year, the commissioner of human services shall withhold from funds distributed to each county under Minnesota Rules, parts 9550.0300 to 9550.0370, an amount equivalent to 1.5 percent of each county's annual title XX allocation under section 256M.50. The commissioner must use these funds to ensure decentralization of training.

(c) The federal revenue under this subdivision is available for these purposes until the funds are expended.
§ 41-61-59. Report of death to medical examiner; investigation of death; compensation of chief medical examiner or investigator.

Miss. Code Ann. § 41-61-59

(1) A person's death that affects the public interest as specified in subsection (2) of this section shall be promptly reported to the medical examiner by the physician in attendance, any hospital employee, any law enforcement officer having knowledge of the death, the embalmer or other funeral home employee, any emergency medical technician, any relative or any other person present. The appropriate medical examiner shall notify the municipal or state law enforcement agency or sheriff and take charge of the body. When the medical examiner has received notification under Section 41-39-15(6) that the deceased is medically suitable to be an organ and/or tissue donor, the medical examiner's authority over the body shall be subject to the provisions of Section 41-39-15(6). The appropriate medical examiner shall notify the Mississippi Bureau of Narcotics within twenty-four (24) hours of receipt of the body in cases of death as described in subsection (2)(m) or (n) of this section.

(2) A death affecting the public interest includes, but is not limited to, any of the following:

(a) Violent death, including homicidal, suicidal or accidental death.
(b) Death caused by thermal, chemical, electrical or radiation injury.
(c) Death caused by criminal abortion, including self-induced abortion, or abortion related to or by sexual abuse.
(d) Death related to disease thought to be virulent or contagious that may constitute a public hazard.
(e) Death that has occurred unexpectedly or from an unexplained cause.
(f) Death of a person confined in a prison, jail or correctional institution.
(g) Death of a person where a physician was not in attendance within thirty-six (36) hours preceding death, or in pre-diagnosed terminal or bedfast cases, within thirty (30) days preceding death.
(h) Death of a person where the body is not claimed by a relative or a friend.
(i) Death of a person where the identity of the deceased is unknown.
(j) Death of a child under the age of two (2) years where death results from an unknown cause or where the circumstances surrounding the death indicate that sudden infant death syndrome may be the cause of death.
(k) Where a body is brought into this state for disposal and there is reason to believe either that the death was not investigated properly or that there is not an adequate certificate of death.
(l) Where a person is presented to a hospital emergency room unconscious and/or unresponsive, with cardiopulmonary resuscitative measures being performed, and dies within twenty-four (24) hours of admission without regaining consciousness or responsiveness, unless a physician was in attendance within thirty-six (36) hours preceding presentation to the hospital, or in cases in which the decedent had a prediagnosed terminal or bedfast condition, unless a physician was in attendance within thirty (30) days preceding presentation to the hospital.
(m) Death that is caused by drug overdose or which is believed to be caused by drug overdose.
(n) When a stillborn fetus is delivered and the cause of the demise is medically believed to be from the use by the mother of any controlled substance as defined in Section 41-29-105.

(3) The State Medical Examiner is empowered to investigate deaths, under the authority hereinafter conferred, in any and all political subdivisions of the state. The county medical examiners and county medical examiner investigators, while appointed for a specific county, may serve other counties on a regular basis with written authorization by the State Medical Examiner, or may serve other counties on an as-needed basis upon the request of the ranking officer of the investigating law
enforcement agency. If a death affecting the public interest takes place in a county other than the one where injuries or other substantial causal factors leading to the death have occurred, jurisdiction for investigation of the death may be transferred, by mutual agreement of the respective medical examiners of the counties involved, to the county where the injuries or other substantial causal factors occurred, and the costs of autopsy or other studies necessary to the further investigation of the death shall be borne by the county assuming jurisdiction.

(4) The chief county medical examiner or chief county medical examiner investigator may receive from the county in which he serves a salary of Nine Hundred Dollars ($900.00) per month, in addition to the fees specified in Sections 41-61-69 and 41-61-75, provided that no county shall pay the chief county medical examiner or chief county medical examiner investigator less than One Hundred Dollars ($100.00) per month as a salary, in addition to other compensation provided by law. In any county having one or more deputy medical examiners or deputy medical examiner investigators, each deputy may receive from the county in which he serves, in the discretion of the board of supervisors, a salary of not more than Nine Hundred Dollars ($900.00) per month, in addition to the fees specified in Sections 41-61-69 and 41-61-75. For this salary the chief shall assure twenty-four-hour daily and readily available death investigators for the county, and shall maintain copies of all medical examiner death investigations for the county for at least the previous five (5) years. He shall coordinate his office and duties and cooperate with the State Medical Examiner, and the State Medical Examiner shall cooperate with him.

§ 43-21-353. Duty to inform state agencies and officials; duty to inform individual about whom report has been made of specific allegations.

Miss. Code Ann. § 43-21-353

(1) Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, public or private school employee or any other person having reasonable cause to suspect that a child is a neglected child or an abused child, shall cause an oral report to be made immediately by telephone or otherwise and followed as soon thereafter as possible by a report in writing to the Department of Human Services, and immediately a referral shall be made by the Department of Human Services to the youth court intake unit, which unit shall promptly comply with Section 43-21-357. In the course of an investigation, at the initial time of contact with the individual(s) about whom a report has been made under this Youth Court Act or with the individual(s) responsible for the health or welfare of a child about whom a report has been made under this chapter, the Department of Human Services shall inform the individual of the specific complaints or allegations made against the individual. Consistent with subsection (4), the identity of the person who reported his or her suspicion shall not be disclosed. Where appropriate, the Department of Human Services shall additionally make a referral to the youth court prosecutor.

Upon receiving a report that a child has been sexually abused, or burned, tortured, mutilated or otherwise physically abused in such a manner as to cause serious bodily harm, or upon receiving any report of abuse that would be a felony under state or federal law, the Department of Human Services shall immediately notify the law enforcement agency in whose jurisdiction the abuse occurred and shall notify the appropriate prosecutor within forty-eight (48) hours, and the Department of Human Services shall have the duty to provide the law enforcement agency all the names and facts known at the time of the report; this duty shall be of a continuing nature. The law enforcement agency and the Department of Human Services shall investigate the reported abuse immediately and shall file a preliminary report with the appropriate prosecutor's office within twenty-four (24) hours and shall make additional reports as new or additional information or evidence becomes available. The Department
of Human Services shall advise the clerk of the youth court and the youth court prosecutor of all cases of abuse reported to the department within seventy-two (72) hours and shall update such report as information becomes available.

(2) Any report to the Department of Human Services shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries and any other information that might be helpful in establishing the cause of the injury and the identity of the perpetrator.

(3) The Department of Human Services shall maintain a statewide incoming wide-area telephone service or similar service for the purpose of receiving reports of suspected cases of child abuse; provided that any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer or public or private school employee who is required to report under subsection (1) of this section shall report in the manner required in subsection (1).

(4) Reports of abuse and neglect made under this chapter and the identity of the reporter are confidential except when the court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to a judicial proceeding or when the identity of the reporter is released to law enforcement agencies and the appropriate prosecutor pursuant to subsection (1). Reports made under this section to any law enforcement agency or prosecutorial officer are for the purpose of criminal investigation and prosecution only and no information from these reports may be released to the public except as provided by Section 43-21-261. Disclosure of any information by the prosecutor shall be according to the Mississippi Uniform Rules of Circuit and County Court Procedure. The identity of the reporting party shall not be disclosed to anyone other than law enforcement officers or prosecutors without an order from the appropriate youth court. Any person disclosing any reports made under this section in a manner not expressly provided for in this section or Section 43-21-261, shall be guilty of a misdemeanor and subject to the penalties prescribed by Section 43-21-267.

(5) All final dispositions of law enforcement investigations described in subsection (1) of this section shall be determined only by the appropriate prosecutor or court. All final dispositions of investigations by the Department of Human Services as described in subsection (1) of this section shall be determined only by the youth court. Reports made under subsection (1) of this section by the Department of Human Services to the law enforcement agency and to the district attorney's office shall include the following, if known to the department:
   (a) The name and address of the child;
   (b) The names and addresses of the parents;
   (c) The name and address of the suspected perpetrator;
   (d) The names and addresses of all witnesses, including the reporting party if a material witness to the abuse;
   (e) A brief statement of the facts indicating that the child has been abused and any other information from the agency files or known to the family protection worker or family protection specialist making the investigation, including medical records or other records, which may assist law enforcement or the district attorney in investigating and/or prosecuting the case; and
   (f) What, if any, action is being taken by the Department of Human Services.

(6) In any investigation of a report made under this chapter of the abuse or neglect of a child as defined in Section 43-21-105(m), the Department of Human Services may request the appropriate law enforcement officer with jurisdiction to accompany the department in its investigation, and in such cases the law enforcement officer shall
comply with such request.

(7) Anyone who willfully violates any provision of this section shall be, upon being found guilty, punished by a fine not to exceed Five Thousand Dollars ($5,000.00), or by imprisonment in jail not to exceed one (1) year, or both.

(8) If a report is made directly to the Department of Human Services that a child has been abused or neglected in an out-of-home setting, a referral shall be made immediately to the law enforcement agency in whose jurisdiction the abuse occurred and the department shall notify the district attorney's office within forty-eight (48) hours of such report. The Department of Human Services shall investigate the out-of-home setting report of abuse or neglect to determine whether the child who is the subject of the report, or other children in the same environment, comes within the jurisdiction of the youth court and shall report to the youth court the department's findings and recommendation as to whether the child who is the subject of the report or other children in the same environment require the protection of the youth court. The law enforcement agency shall investigate the reported abuse immediately and shall file a preliminary report with the district attorney's office within forty-eight (48) hours and shall make additional reports as new information or evidence becomes available. If the out-of-home setting is a licensed facility, an additional referral shall be made by the Department of Human Services to the licensing agency. The licensing agency shall investigate the report and shall provide the Department of Human Services, the law enforcement agency and the district attorney's office with their written findings from such investigation as well as that licensing agency's recommendations and actions taken.

(9) If a child protective investigation does not result in an out-of-home placement, a child protective investigator must provide information to the parent or guardians about community service programs that provide respite care, voluntary guardianship or other support services for families in crisis.

Miss. Code Ann. § 43-21-355

Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, school attendance officer, public school district employee, nonpublic school employee, licensed professional counselor or any other person participating in the making of a required report pursuant to Section 43-21-353 or participating in the judicial proceeding resulting therefrom shall be presumed to be acting in good faith. Any person or institution reporting in good faith shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

§ 43-47-7. Reporting abuse, neglect, or exploitation; establishment of central register; confidentiality.
Miss. Code Ann. § 43-47-7

(1) Except as otherwise provided by Section 43-47-37 for vulnerable persons in care facilities and by Section 43-7-65 for the State Ombudsman Program, any person including, but not limited to, the following, who knows or suspects that a vulnerable person has been or is being abused, neglected or exploited shall immediately report such knowledge or suspicion to the Department of Human Services or to the county department of human services where the vulnerable person is located:

(i) Attorney, physician, osteopathic physician, medical examiner,
chiropractor or nurse engaged in the admission, examination, care
or treatment of vulnerable persons;
(ii) Health professional or mental health professional other than one
listed in subparagraph (i);
(iii) Practitioner who relies solely on spiritual means for healing;
(iv) Social worker, family protection worker, family protection
specialist or other professional care, residential or institutional staff;
(v) State, county or municipal criminal justice employee or law
enforcement officer;
(vi) Human rights advocacy committee or Long-Term care
ombudsman council member; or
(vii) Accountant, stockbroker, financial advisor or consultant,
insurance agent or consultant, investment advisor or consultant,
financial planner, or any officer or employee of a bank, savings and
loan, credit union or any other financial service provider.

(b) To the extent possible, a report made pursuant to paragraph (a) must
contain, but need not be limited to, the following information:
(i) Name, age, race, sex, physical description and location of each
vulnerable person alleged to have been abused, neglected or
exploited.
(ii) Names, addresses and telephone numbers of the vulnerable
person's family members.
(iii) Name, address and telephone number of each alleged
perpetrator.
(iv) Name, address and telephone number of the caregiver of the
vulnerable person, if different from the alleged perpetrator.
(v) Description of the neglect, exploitation, physical or psychological
injuries sustained.
(vi) Actions taken by the reporter, if any, such as notification of the
criminal justice agency.
(vii) Any other information available to the reporting person which
may establish the cause of abuse, neglect or exploitation that
occurred or is occurring.

In addition to the above, any person or entity holding or required to hold a
license as specified in Title 73, Professions and Vocations, Mississippi Code
of 1972, shall be required to give his, her or its name, address and telephone
number in the report of the alleged abuse, neglect or exploitation.

(c) The department, or its designees, shall report to an appropriate criminal
investigative or prosecutive authority any person required by this section
to report or who fails to comply with this section. A person who fails to
make a report as required under this subsection or who, because of the
circumstances, should have known or suspected beyond a reasonable
doubt that a vulnerable person suffers from exploitation, abuse, neglect
or self-neglect but who knowingly fails to comply with this section shall,
upon conviction, be guilty of a misdemeanor and shall be punished by a
fine not exceeding Five Thousand Dollars ($5,000.00), or by imprisonment
in the county jail for not more than six (6) months, or both such fine and
imprisonment. However, for purposes of this subsection (1), any recognized
legal financial transaction shall not be considered cause to report the
knowledge or suspicion of the financial exploitation of a vulnerable person.
If a person convicted under this section is a member of a profession or
occupation that is licensed, certified or regulated by the state, the court
shall notify the appropriate licensing, certifying or regulating entity of the
conviction.

(2) Reports received by law enforcement authorities or other agencies shall be
forwarded immediately to the Department of Human Services or the county
department of human services. The Department of Human Services shall investigate
the reported abuse, neglect or exploitation immediately and shall file a preliminary
report of its findings with the Office of the Attorney General within forty-eight (48)
hours if immediate attention is needed, or seventy-two (72) hours if the vulnerable
person is not in immediate danger and shall make additional reports as new
information or evidence becomes available. The Department of Human Services,
upon request, shall forward a statement to the person making the initial report
required by this section as to what action is being taken, if any.

(3) The report may be made orally or in writing, but where made orally, it shall be
followed up by a written report. A person who fails to report or to otherwise comply
with this section, as provided herein, shall have no civil or criminal liability, other than
that expressly provided for in this section, to any person or entity in connection with
any failure to report or to otherwise comply with the requirements of this section.

(4) Anyone who makes a report required by this section or who testifies or
participates in any judicial proceedings arising from the report or who participates
in a required investigation or evaluation shall be presumed to be acting in good faith
and in so doing shall be immune from liability, civil or criminal, that might otherwise
be incurred or imposed. However, the immunity provided under this subsection shall
not apply to any suspect or perpetrator of any abuse, neglect or exploitation.

(5) A person who intentionally makes a false report under the provisions of this
section may be found liable in a civil suit for any actual damages suffered by the
person or persons so reported and for any punitive damages set by the court or jury.

(6) The Executive Director of the Department of Human Services shall establish
a statewide central register of reports made pursuant to this section. The central
register shall be capable of receiving reports of vulnerable persons in need of
protective services seven (7) days a week, twenty-four (24) hours a day. To effectuate
this purpose, the executive director shall establish a single toll-free statewide phone
number that all persons may use to report vulnerable persons in need of protective
services, and that all persons authorized by subsection (7) of this section may use
for determining the existence of prior reports in order to evaluate the condition or
circumstances of the vulnerable person before them. Such oral reports and evidence
of previous reports shall be transmitted to the appropriate county department of
human services. The central register shall include, but not be limited to, the following
information: the name and identifying information of the individual reported, the
county department of human services responsible for the investigation of each
such report, the names, affiliations and purposes of any person requesting or
receiving information which the executive director believes might be helpful in the
furtherance of the purposes of this chapter, the name, address, birth date, social
security number of the perpetrator of abuse, neglect and/or exploitation, and the
type of abuse, neglect and/or exploitation of which there was substantial evidence
upon investigation of the report. The central register shall inform the person making
reports required under this section of his or her right to request statements from the
department as to what action is being taken, if any.

Each person, business, organization or other entity, whether public or private,
operated for profit, operated for nonprofit or a voluntary unit of government
not responsible for law enforcement providing care, supervision or treatment of
vulnerable persons shall conduct criminal history records checks on each new
employee of the entity who provides, and/or would provide direct patient care or
services to adults or vulnerable persons, as provided in Section 43-11-13.

The department shall not release data that would be harmful or detrimental to the
vulnerable person or that would identify or locate a person who, in good faith, made
a report or cooperated in a subsequent investigation unless ordered to do so by a
court of competent jurisdiction.
(7) Reports made pursuant to this section, reports written or photographs taken concerning such reports in the possession of the Department of Human Services or the county department of human services shall be confidential and shall only be made available to:

(a) A physician who has before him a vulnerable person whom he reasonably suspects may be abused, neglected or exploited, as defined in Section 43-47-5;

(b) A duly authorized agency having the responsibility for the care or supervision of a subject of the report;

(c) A grand jury or a court of competent jurisdiction, upon finding that the information in the record is necessary for the determination of charges before the grand jury;

(d) A district attorney or other law enforcement official.

Notwithstanding the provisions of paragraph (b) of this subsection, the department may not disclose a report of the abandonment, exploitation, abuse, neglect or self-neglect of a vulnerable person to the vulnerable person's guardian, attorney-in-fact, surrogate decision maker, or caregiver who is a perpetrator or alleged perpetrator of the abandonment, exploitation, abuse or neglect of the vulnerable person.

Any person given access to the names or other information identifying the subject of the report, except the subject of the report, shall not divulge or make public such identifying information unless he is a district attorney or other law enforcement official and the purpose is to initiate court action. Any person who willfully permits the release of any data or information obtained pursuant to this section to persons or agencies not permitted to such access by this section shall be guilty of a misdemeanor.

(8) Upon reasonable cause to believe that a caretaker or other person has abused, neglected or exploited a vulnerable person, the department shall promptly notify the district attorney of the county in which the vulnerable person is located and the Office of the Attorney General, except as provided in Section 43-47-37(2).

§ 97-5-24. Sexual involvement of school employee with student; duty to report; penalties for failure to report; immunity from civil liability for report made in good faith.
Miss. Code Ann. § 97-5-24

If any person eighteen (18) years or older who is employed by any public school district or private school in this state is accused of fondling or having any type of sexual involvement with any child under the age of eighteen (18) years who is enrolled in such school, the principal of such school and the superintendent of such school district shall timely notify the district attorney with jurisdiction where the school is located of such accusation, the Mississippi Department of Education and the Department of Human Services, provided that such accusation is reported to the principal and to the school superintendent and that there is a reasonable basis to believe that such accusation is true. Any superintendent, or his designee, who fails to make a report required by this section shall be subject to the penalties provided in Section 37-11-35. Any superintendent, principal, teacher or other school personnel participating in the making of a required report pursuant to this section or participating in any judicial proceeding resulting therefrom shall be presumed to be acting in good faith. Any person reporting in good faith shall be immune from any civil liability that might otherwise be incurred or imposed. SOURCES: Laws, 1994, ch. 595, § 11; Laws, 2011, ch. 514, § 2, eff from and after passage (approved Apr. 26, 2011.)
§ 97-5-51. Mandatory reporting of sex crimes against minors; definitions; procedure; report contents; forensic samples; penalties.
Miss. Code Ann. § 97-5-51

(1) Definitions. For the purposes of this section:
   (a) "Sex crime against a minor" means any offense under at least one (1) of the following statutes when committed by an adult against a minor who is under the age of sixteen (16):
      (i) Section 97-3-65 relating to rape;
      (ii) Section 97-3-71 relating to rape and assault with intent to ravish;
      (iii) Section 97-3-95 relating to sexual battery;
      (iv) Section 97-5-23 relating to the touching of a child, mentally defective or incapacitated person or physically helpless person for lustful purposes;
      (v) Section 97-5-41 relating to the carnal knowledge of a stepchild, adopted child or child of a cohabiting partner;
      (vi) Section 97-5-33 relating to exploitation of children;
      (vii) Section 97-3-54.1(1)(c) relating to procuring sexual servitude of a minor;
      (viii) Section 43-47-18 relating to sexual abuse of a vulnerable person;
      (ix) Section 97-1-7 relating to the attempt to commit any of the offenses listed in this subsection.
   (b) "Mandatory reporter" means any of the following individuals performing their occupational duties: health care practitioner, clergy member, teaching or child care provider, law enforcement officer, or commercial image processor.
   (c) "Health care practitioner" means any individual who provides health care services, including a physician, surgeon, physical therapist, psychiatrist, psychologist, medical resident, medical intern, hospital staff member, licensed nurse, midwife and emergency medical technician or paramedic.
   (d) "Clergy member" means any priest, rabbi or duly ordained deacon or minister.
   (e) "Teaching or child care provider" means anyone who provides training or supervision of a minor under the age of sixteen (16), including a teacher, teacher's aide, principal or staff member of a public or private school, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider.
   (f) "Commercial image processor" means any person who, for compensation:
      (i) develops exposed photographic film into negatives, slides or prints;
      (ii) makes prints from negatives or slides; or
      (iii) processes or stores digital media or images from any digital process, including, but not limited to, website applications, photography, live streaming of video, posting, creation of power points or any other means of intellectual property communication or media including conversion or manipulation of still shots or video into a digital show stored on a photography site or a media storage site.
   (g) "Caretaker" means any person legally obligated to provide or secure adequate care for a minor under the age of sixteen (16), including a parent, guardian, tutor, legal custodian or foster home parent.

(2) Mandatory reporter requirement. A mandatory reporter shall make a report if it would be reasonable for the mandatory reporter to suspect that a sex crime against a minor has occurred.
(b) Failure to file a mandatory report shall be punished as provided in this section.

(c) Reports made under this section and the identity of the mandatory reporter are confidential except when the court determines the testimony of the person reporting to be material to a judicial proceeding or when the identity of the reporter is released to law enforcement agencies and the appropriate prosecutor. The identity of the reporting party shall not be disclosed to anyone other than law enforcement or prosecutors except under court order; violation of this requirement is a misdemeanor. Reports made under this section are for the purpose of criminal investigation and prosecution only and information from these reports is not a public record. Disclosure of any information by the prosecutor shall conform to the Mississippi Uniform Rules of Circuit and County Court Procedure.

(d) Any mandatory reporter who makes a required report under this section or participates in a judicial proceeding resulting from a mandatory report shall be presumed to be acting in good faith. Any person or institution reporting in good faith shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

(3)

(a) Mandatory reporting procedure. A report required under subsection (2) must be made immediately to the law enforcement agency in whose jurisdiction the reporter believes the sex crime against the minor occurred. Except as otherwise provided in this subsection (3), a mandatory reporter may not delegate to any other person the responsibility to report, but shall make the report personally.

(i) The reporting requirement under this subsection (3) is satisfied if a mandatory reporter in good faith reports a suspected sex crime against a minor to the Department of Human Services under Section 43-21-353.

(ii) The reporting requirement under this subsection (3) is satisfied if a mandatory reporter reports a suspected sex crime against a minor by following a reporting procedure that is imposed:
   1. By state agency rule as part of licensure of any person or entity holding a state license to provide services that include the treatment or education of abused or neglected children; or
   2. By statute.

(b) Contents of the report. The report shall identify, to the extent known to the reporter, the following:

(i) The name and address of the minor victim;
(ii) The name and address of the minor’s caretaker;
(iii) Any other pertinent information known to the reporter.

(4) A law enforcement officer who receives a mandated report under this section shall file an affidavit against the offender on behalf of the State of Mississippi if there is probable cause to believe that the offender has committed a sex crime against a minor.

(5) Collection of forensic samples.

(a)

(i) When an abortion is performed on a minor who is less than fourteen (14) years of age at the time of the abortion procedure, fetal tissue extracted during the abortion shall be collected in accordance with rules and regulations adopted pursuant to this section if it would be reasonable to suspect that the pregnancy being terminated is the result of a sex crime against a minor.

(ii) When a minor who is under sixteen (16) years of age gives birth
to an infant, umbilical cord blood shall be collected, if possible, in accordance with rules and regulations adopted pursuant to this section if it would be reasonable to suspect that the minor’s pregnancy resulted from a sex crime against a minor.

(iii) It shall be reasonable to suspect that a sex crime against a minor has occurred if the mother of an infant was less than sixteen (16) years of age at the time of conception and at least one (1) of the following conditions also applies:

1. The mother of the infant will not identify the father of the infant;
2. The mother of the infant lists the father of the infant as unknown;
3. The person the mother identifies as the father of the infant disputes his fatherhood;
4. The person the mother identifies as the father of the infant is twenty-one (21) years of age or older; or
5. The person the mother identifies as the father is deceased.

(b) The State Medical Examiner shall adopt rules and regulations consistent with Section 99-49-1 that prescribe:

(i) The amount and type of fetal tissue or umbilical cord blood to be collected pursuant to this section;
(ii) Procedures for the proper preservation of the tissue or blood for the purpose of DNA testing and examination;
(iii) Procedures for documenting the chain of custody of such tissue or blood for use as evidence;
(iv) Procedures for proper disposal of fetal tissue or umbilical cord blood collected pursuant to this section;
(v) A uniform reporting instrument mandated to be utilized, which shall include the complete residence address and name of the parent or legal guardian of the minor who is the subject of the report required under this subsection (5); and
(vi) Procedures for communication with law enforcement agencies regarding evidence and information obtained pursuant to this section.

(6) Penalties.

(a) A person who is convicted of a first offense under this section shall be guilty of a misdemeanor and fined not more than Five Hundred Dollars ($500.00).

(b) A person who is convicted of a second offense under this section shall be guilty of a misdemeanor and fined not more than One Thousand Dollars ($1,000.00), or imprisoned for not more than thirty (30) days, or both.

(c) A person who is convicted of a third or subsequent offense under this section shall be guilty of a misdemeanor and fined not more than Five Thousand Dollars ($5,000.00), or imprisoned for not more than one (1) year, or both.

(7) A health care practitioner or health care facility shall be immune from any penalty, civil or criminal, for good-faith compliance with any rules and regulations adopted pursuant to this section.

§ 97-29-49. Prostitution; report to department of human services for suspected child sexual abuse or neglect if minor involved; immunity from prosecution if trafficked person involved.
Miss. Code Ann. § 97-29-49

(1) A person commits the misdemeanor of prostitution if the person knowingly or
intentionally performs, or offers or agrees to perform, sexual intercourse or sexual conduct for money or other property. “Sexual conduct” includes cunnilingus, fellatio, masturbation of another, anal intercourse or the causing of penetration to any extent and with any object or body part of the genital or anal opening of another.

(2) Any person violating the provisions of this section shall, upon conviction, be punished by a fine not exceeding Two Hundred Dollars ($200.00) or by confinement in the county jail for not more than six (6) months, or both.

(3) In addition to the mandatory reporting provisions contained in Section 97-5-51, any law enforcement officer who takes a minor under eighteen (18) years of age into custody for suspected prostitution shall immediately make a report to the Department of Human Services as required in Section 43-21-353 for suspected child sexual abuse or neglect, and the department shall commence an initial investigation into suspected child sexual abuse or neglect as required in Section 43-21-353.

(4) If it is determined that a person suspected of or charged with engaging in prostitution is engaging in those acts as a direct result of being a trafficked person, as defined by Section 97-3-54.4, that person shall be immune from prosecution for prostitution as a juvenile or adult and, if a minor, the provisions of Section 97-3-54.1(4) shall be applicable.
§ 210.115. Reports of abuse, neglect, and under age eighteen deaths--persons required to report--deaths required to report--deaths required to be reported to the division or child fatality review panel, when--report made to another state, when.

1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, minister as provided by section 352.400, peace officer or law enforcement official, or other person with responsibility for the care of children has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report to the division in accordance with the provisions of sections 210.109 to 210.183. No internal investigation shall be initiated until such a report has been made. As used in this section, the term “abuse” is not limited to abuse inflicted by a person responsible for the child's care, custody and control as specified in section 210.110, but shall also include abuse inflicted by any other person.

2. If two or more members of a medical institution who are required to report jointly have knowledge of a known or suspected instance of child abuse or neglect, a single report may be made by a designated member of that medical team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter immediately make the report. Nothing in this section, however, is meant to preclude any person from reporting abuse or neglect.

3. The reporting requirements under this section are individual, and no supervisor or administrator may impede or inhibit any reporting under this section. No person making a report under this section shall be subject to any sanction, including any adverse employment action, for making such report. Every employer shall ensure that any employee required to report pursuant to subsection 1 of this section has immediate and unrestricted access to communications technology necessary to make an immediate report and is temporarily relieved of other work duties for such time as is required to make any report required under subsection 1 of this section.

4. Notwithstanding any other provision of sections 210.109 to 210.183, any child who does not receive specified medical treatment by reason of the legitimate practice of the religious belief of the child's parents, guardian, or others legally responsible for the child, for that reason alone, shall not be found to be an abused or neglected child, and such parents, guardian or other persons legally responsible for the child shall not be entered into the central registry. However, the division may accept reports concerning such a child and may subsequently investigate or conduct a family assessment as a result of that report. Such an exception shall not limit the administrative or judicial authority of the state to ensure that medical services are provided to the child when the child's health requires it.

5. In addition to those persons and officials required to report actual or suspected abuse or neglect, any other person may report in accordance with sections 210.109 to 210.183 if such person has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect.

6. Any person or official required to report pursuant to this section, including employees of the division, who has probable cause to suspect that a child who is or
may be under the age of eighteen, who is eligible to receive a certificate of live birth, has died shall report that fact to the appropriate medical examiner or coroner. If, upon review of the circumstances and medical information, the medical examiner or coroner determines that the child died of natural causes while under medical care for an established natural disease, the coroner, medical examiner or physician shall notify the division of the child's death and that the child's attending physician shall be signing the death certificate. In all other cases, the medical examiner or coroner shall accept the report for investigation, shall immediately notify the division of the child's death as required in section 58.452 and shall report the findings to the child fatality review panel established pursuant to section 210.192.

7. Any person or individual required to report may also report the suspicion of abuse or neglect to any law enforcement agency or juvenile office. Such report shall not, however, take the place of reporting to the division.

8. If an individual required to report suspected instances of abuse or neglect pursuant to this section has reason to believe that the victim of such abuse or neglect is a resident of another state or was injured as a result of an act which occurred in another state, the person required to report such abuse or neglect may, in lieu of reporting to the Missouri children's division, make such a report to the child protection agency of the other state with the authority to receive such reports pursuant to the laws of such other state. If such agency accepts the report, no report is required to be made, but may be made, to the children's division.

§ 210-120. Medical institution staff members, duties of.
Mo. Rev. Stat. § 210.120
Whenever a person is required to report under sections 210.110 to 210.165 in his official capacity as a staff member of a medical institution, whether public or private, he shall immediately notify the physician in charge or his designee who shall then take or cause to be taken color photographs of physical trauma and shall, if medically indicated, cause to be performed radiologic examination of the child who is the subject of a report, costs of which shall be paid by the division. Reproductions of such color photographs and/or radiologic reports shall be sent to the division as soon as possible.

§ 210.125. Protective custody of child, who may take, reports required-temporary protective custody defined.
Mo. Rev. Stat. § 210.125
1. A police officer, law enforcement official, or a physician who has reasonable cause to suspect that a child is suffering from illness or injury or is in danger of personal harm by reason of his surroundings and that a case of child abuse or neglect exists, may request that the juvenile officer take the child into protective custody under chapter 211.

2. A police officer, law enforcement official, or a physician who has reasonable cause to believe that a child is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect and such person has reasonable cause to believe the harm or threat to life may occur before a juvenile court could issue a temporary protective custody order or before a juvenile officer could take the child into protective custody, the police officer, law enforcement official or physician may take or retain temporary protective custody of the child without the consent of the child's parents, guardian or others legally responsible for his care.

3. Any person taking a child in protective custody under this section shall immediately notify the juvenile officer of the court of the county in which the child is located of his
actions and notify the division and make a reasonable attempt to advise the parents, guardians or others legally responsible for the child's care. The jurisdiction of the juvenile court attaches from the time the juvenile is taken into protective custody. Such person shall file, as soon as practicable but no later than twelve hours, a written statement with the juvenile officer which sets forth the identity of the child and the facts and circumstances which gave such person reasonable cause to believe that there was imminent danger of serious physical harm or threat to the life of the child. Upon notification that a child has been taken into protective custody, the juvenile officer shall either return the child to his parents, guardian, or others responsible for his care or shall initiate child protective proceedings under chapter 211. In no event shall an employee of the division, acting upon his own, remove a child under the provisions of this act*.

4. Temporary protective custody for purposes of this section shall not exceed twenty-four hours. Temporary protective custody for a period beyond twenty-four hours may be authorized only by an order of the juvenile court.

5. For the purposes of this section, “temporary protective custody” shall mean temporary placement within a hospital or medical facility or emergency foster care facility or such other suitable custody placement as the court may direct; provided, however, that an abused or neglected child may not be detained in temporary custody in a secure detention facility.

§ 210.130. Oral Reports, when and where made – contents of reports.
Mo. Rev. Stat. § 210.130

1. Oral reports of abuse or neglect shall be made to the division by telephone or otherwise.

2. Such reports shall include the following information: The names and addresses of the child and his parents or other persons responsible for his care, if known; the child's age, sex, and race; the nature and extent of the child’s injuries, abuse, or neglect, including any evidence of previous injuries, abuse, or neglect to the child or his siblings; the name, age and address of the person responsible for the injuries, abuse or neglect, if known; family composition; the source of the report; the name and address of the person making the report, his occupation, and where he can be reached; the actions taken by the reporting source, including the taking of color photographs or the making of radiologic examinations pursuant to sections 210.110 to 210.165, or both such taking of color photographs and making of radiologic examinations, removal or keeping of the child, notifying the coroner or medical examiner, and other information that the person making the report believes may be helpful in the furtherance of the purposes of sections 210.110 to 210.165.

3. Evidence of sexual abuse or sexual molestation of any child under eighteen years of age shall be turned over to the division within twenty-four hours by those mandated to report.

§ 210.135. Immunity from liability granted to reporting persons or institutions, when – exceptions; preliminary evaluation required, when.
Mo. Rev. Stat. § 210.135

1. Any person, official, or institution complying with the provisions of sections 210.110 to 210.165 in the making of a report, the taking of color photographs, or the making of radiologic examinations pursuant to sections 210.110 to 210.165, or both such taking of color photographs and making of radiologic examinations, or the removal or retaining a child pursuant to sections 210.110 to 210.165, or in cooperating with the division, or any other law enforcement agency, juvenile office, court, or
child-protective service agency of this or any other state, in any of the activities pursuant to sections 210.110 to 210.165, or any other allegation of child abuse, neglect or assault, pursuant to sections 568.045 to 568.060, shall have immunity from any liability, civil or criminal, that otherwise might result by reason of such actions. Provided, however, any person, official or institution intentionally filing a false report, acting in bad faith, or with ill intent, shall not have immunity from any liability, civil or criminal. Any such person, official, or institution shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

2. Any person, who is not a school district employee, who makes a report to any employee of the school district of child abuse by a school employee shall have immunity from any liability, civil or criminal, that otherwise might result because of such report. Provided, however, that any such person who makes a false report, knowing that the report is false, or who acts in bad faith or with ill intent in making such report shall not have immunity from any liability, civil or criminal. Any such person shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

3. In a case involving the death or serious injury of a child after a report has been made under sections 210.109 to 210.165, the division shall conduct a preliminary evaluation in order to determine whether a review of the ability of the circuit manager or case worker or workers to perform their duties competently is necessary. The preliminary evaluation shall examine:

   (1) The hotline worker or workers who took any reports related to such case;
   (2) The division case worker or workers assigned to the investigation of such report; and
   (3) The circuit manager assigned to the county where the report was investigated. Any preliminary evaluation shall be completed no later than three days after the child’s death. If the division determines a review and assessment is necessary, it shall be completed no later than three days after the child’s death.

§ 210.140. Privileged communications not recognized, exception.
Mo. Rev. Stat. § 210.140

Any legally recognized privileged communication, except that between attorney and client or involving communications made to a minister or clergyperson, shall not apply to situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required or permitted by sections 210.110 to 210.165, to cooperate with the division in any of its activities pursuant to sections 210.110 to 210.165, or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.

§ 210.145.16. Telephone hotline for reports on child abuse--division duties, protocols, law enforcement contacted immediately, investigation conducted, when, exception--chief investigator named--family support team meetings, who may attend--reporter's right to receive information--admissibility of reports in custody cases.
Mo. Rev. Stat. § 210.145.16

1. This division shall develop protocols which give priority to:

   (1) Ensuring the well-being and safety of the child in instances where child abuse or neglect has been alleged;
   (2) Promoting the preservation and reunification of children and families consistent with state and federal law;
(3) Providing due process for those accused of child abuse or neglect; and
(4) Maintaining an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. The division shall utilize structured decision-making protocols for classification purposes of all child abuse and neglect reports. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child. All child abuse and neglect reports shall be initiated within twenty-four hours and shall be classified based upon the reported risk and injury to the child. The division shall promulgate rules regarding the structured decision-making protocols to be utilized for all child abuse and neglect reports.

3. Upon receipt of a report, the division shall determine if the report merits investigation, including reports which if true would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024, or 565.050 if the victim is a child less than eighteen years of age, section 566.030 or 566.060 if the victim is a child less than eighteen years of age, or other crimes under chapter 566 if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050 if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 573.200*, or 573.205*, section 573.025, 573.035, 573.037, or 573.040, or an attempt to commit any such crimes. The division shall immediately communicate all reports that merit investigation to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

4. When the child abuse and neglect hotline receives three or more calls, within a seventy-two hour period, from one or more individuals concerning the same child, the division shall conduct a review to determine whether the calls meet the criteria and statutory definition for a child abuse and neglect report to be accepted. In conducting the review, the division shall contact the hotline caller or callers in order to collect information to determine whether the calls meet the criteria for harassment.

5. The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation and provide such agency with a detailed description of the report received. In such cases the local division office shall request the assistance of the local law enforcement agency in all aspects of the investigation of the complaint. The appropriate law enforcement agency shall either assist the division in the investigation or provide the division, within twenty-four hours, an explanation in writing detailing the reasons why it is unable to assist.

6. The local office of the division shall cause an investigation or family assessment and services approach to be initiated in accordance with the protocols established in subsection 2 of this section, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct observation. Callers to the child abuse and neglect hotline shall be instructed
by the division's hotline to call 911 in instances where the child may be in immediate
danger. If the parents of the child are not the alleged perpetrators, a parent of
the child must be notified prior to the child being interviewed by the division. No
person responding to or investigating a child abuse and neglect report shall call
prior to a home visit or leave any documentation of any attempted visit, such as
business cards, pamphlets, or other similar identifying information if he or she has a
reasonable basis to believe the following factors are present:
(1)
   (a) No person is present in the home at the time of the home visit;
       and
   (b) The alleged perpetrator resides in the home or the physical
       safety of the child may be compromised if the alleged perpetrator
       becomes aware of the attempted visit;
(2) The alleged perpetrator will be alerted regarding the attempted visit; or
(3) The family has a history of domestic violence or fleeing the community.
If the alleged perpetrator is present during a visit by the person responding
to or investigating the report, such person shall provide written material to
the alleged perpetrator informing him or her of his or her rights regarding
such visit, including but not limited to the right to contact an attorney. The
alleged perpetrator shall be given a reasonable amount of time to read
such written material or have such material read to him or her by the
case worker before the visit commences, but in no event shall such time
exceed five minutes; except that, such requirement to provide written
material and reasonable time to read such material shall not apply in
cases where the child faces an immediate threat or danger, or the person
responding to investigating the report is or feels threatened or in danger
of physical harm. If the abuse is alleged to have occurred in a school or
child care facility the division shall not meet with the child in any school
building or child-care facility building where abuse of such child is alleged to
have occurred. When the child is reported absent from the residence, the
location and the well-being of the child shall be verified. For purposes of this
subsection, “child care facility” shall have the same meaning as such term is
defined in section 210.201.

7. The director of the division shall name at least one chief investigator for each
local division office, who shall direct the division response on any case involving a
second or subsequent incident regarding the same subject child or perpetrator. The
duties of a chief investigator shall include verification of direct observation of the
subject child by the division and shall ensure information regarding the status of
an investigation is provided to the public school district liaison. The public school
district liaison shall develop protocol in conjunction with the chief investigator to
ensure information regarding an investigation is shared with appropriate school
personnel. The superintendent of each school district shall designate a specific
person or persons to act as the public school district liaison. Should the subject child
attend a nonpublic school the chief investigator shall notify the school principal of
the investigation. Upon notification of an investigation, all information received by
the public school district liaison or the school shall be subject to the provisions of the
federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g,
and federal rule 34 C.F.R., Part 99.

8. The investigation shall include but not be limited to the nature, extent, and cause
of the abuse or neglect; the identity and age of the person responsible for the abuse
or neglect; the names and conditions of other children in the home, if any; the home
environment and the relationship of the subject child to the parents or other persons
responsible for the child's care; any indication of incidents of physical violence
against any other household or family member; and other pertinent data.

9. When a report has been made by a person required to report under section
210.115, the division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, that may be pertinent.

10. Upon completion of the investigation, if the division suspects that the report was made maliciously or for the purpose of harassment, the division shall refer the report and any evidence of malice or harassment to the local prosecuting or circuit attorney.

11. Multidisciplinary teams shall be used whenever conducting the investigation as determined by the division in conjunction with local law enforcement. Multidisciplinary teams shall be used in providing protective or preventive social services, including the services of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and other agencies, both public and private.

12. For all family support team meetings involving an alleged victim of child abuse or neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, and the volunteer advocate for the child shall be provided notice and be permitted to attend all such meetings. Family members, other than alleged perpetrators, or other community informal or formal service providers that provide significant support to the child and other individuals may also be invited at the discretion of the parents of the child. In addition, the parents, the legal counsel for the parents, the legal guardian or custodian and the foster parents may request that other individuals, other than alleged perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or attends such team meetings, the division or the convenor of the meeting shall provide such persons with notice of all such subsequent meetings involving the child. Families may determine whether individuals invited at their discretion shall continue to be invited.

13. If the appropriate local division personnel determine after an investigation has begun that completing an investigation is not appropriate, the division shall conduct a family assessment and services approach. The division shall provide written notification to local law enforcement prior to terminating any investigative process. The reason for the termination of the investigative process shall be documented in the record of the division and the written notification submitted to local law enforcement. Such notification shall not preclude nor prevent any investigation by law enforcement.

14. If the appropriate local division personnel determines to use a family assessment and services approach, the division shall:

   (1) Assess any service needs of the family. The assessment of risk and service needs shall be based on information gathered from the family and other sources;

   (2) Provide services which are voluntary and time-limited unless it is determined by the division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

   (3) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109 to 210.183, is required. The
division staff who have conducted the assessment may remain involved in the provision of services to the child and family;
(4) Document at the time the case is closed, the outcome of the family assessment and services approach, any service provided and the removal of risk to the child, if it existed.

15.

(1) Within forty-five days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within forty-five days, unless good cause for the failure to complete the investigation is specifically documented in the information system. Good cause for failure to complete an investigation shall include, but not be limited to:
(a) The necessity to obtain relevant reports of medical providers, medical examiners, psychological testing, law enforcement agencies, forensic testing, and analysis of relevant evidence by third parties which has not been completed and provided to the division;
(b) The attorney general or the prosecuting or circuit attorney of the city or county in which a criminal investigation is pending certifies in writing to the division that there is a pending criminal investigation of the incident under investigation by the division and the issuing of a decision by the division will adversely impact the progress of the investigation; or
(c) The child victim, the subject of the investigation or another witness with information relevant to the investigation is unable or temporarily unwilling to provide complete information within the specified time frames due to illness, injury, unavailability, mental capacity, age, developmental disability, or other cause.
The division shall document any such reasons for failure to complete the investigation.

(2) If a child fatality or near-fatality is involved in a report of abuse or neglect, the investigation shall remain open until the division's investigation surrounding such death or near-fatal injury is completed.

(3) If the investigation is not completed within forty-five days, the information system shall be updated at regular intervals and upon the completion of the investigation, which shall be completed no later than ninety days after receipt of a report of abuse or neglect, or one hundred twenty days after receipt of a report of abuse or neglect involving sexual abuse, or until the division's investigation is complete in cases involving a child fatality or near-fatality. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

16. A person required to report under section 210.115 to the division and any person making a report of child abuse or neglect made to the division which is not made anonymously shall be informed by the division of his or her right to obtain information concerning the disposition of his or her report. Such person shall receive, from the local office, if requested, information on the general disposition of his or her report. Such person may receive, if requested, findings and information concerning the case. Such release of information shall be at the discretion of the director based upon a review of the reporter's ability to assist in protecting the child or the potential harm to the child or other children within the family. The local office shall respond to the request within forty-five days. The findings shall be made
available to the reporter within five days of the outcome of the investigation. If the report is determined to be unsubstantiated, the reporter may request that the report be referred by the division to the office of child advocate for children's protection and services established in sections 37.700 to 37.730. Upon request by a reporter under this subsection, the division shall refer an unsubstantiated report of child abuse or neglect to the office of child advocate for children's protection and services.

17. The division shall provide to any individual who is not satisfied with the results of an investigation information about the office of child advocate and the services it may provide under sections 37.700 to 37.730.

18. In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However:

   (1) Nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made; and

   (2) The court may on its own motion, or shall if requested by a party to the proceeding, make an inquiry not on the record with the children's division to determine if such a report has been made.

   If a report has been made, the court may stay the custody proceeding until the children's division completes its investigation.

19. In any judicial proceeding involving the custody of a child where the court determines that the child is in need of services under paragraph (d) of subdivision (1) of subsection 1 of section 211.031 and has taken jurisdiction, the child's parent, guardian or custodian shall not be entered into the registry.

20. The children's division is hereby granted the authority to promulgate rules and regulations pursuant to the provisions of section 207.021 and chapter 536 to carry out the provisions of sections 210.109 to 210.183.

21. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

§ 210.150. Confidentiality of reports and records, exceptions-violations, penalty.
Mo. Rev. Stat. § 210.145.16

1. The children's division shall ensure the confidentiality of all reports and records made pursuant to sections 210.109 to 210.183 and maintained by the division, its local offices, the central registry, and other appropriate persons, officials, and institutions pursuant to sections 210.109 to 210.183. To protect the rights of the family and the child named in the report as a victim, the children's division shall establish guidelines which will ensure that any disclosure of information concerning the abuse and neglect involving that child is made only to persons or agencies that have a right to such information. The division may require persons to make written requests for access to records maintained by the division. The division shall only release information to persons who have a right to such information. The division shall notify persons receiving information pursuant to subdivisions (2), (7), (8) and (9) of subsection 2 of this section of the purpose for which the information is released and of the penalties for unauthorized dissemination of information. Such information
shall be used only for the purpose for which the information is released.

2. Only the following persons shall have access to investigation records contained in the central registry:
   (1) Appropriate federal, state or local criminal justice agency personnel, or any agent of such entity, with a need for such information under the law to protect children from abuse or neglect;
   (2) A physician or a designated agent who reasonably believes that the child being examined may be abused or neglected;
   (3) Appropriate staff of the division and of its local offices, including interdisciplinary teams which are formed to assist the division in investigation, evaluation and treatment of child abuse and neglect cases or a multidisciplinary provider of professional treatment services for a child referred to the provider;
   (4) Any child named in the report as a victim, or a legal representative, or the parent, if not the alleged perpetrator, or guardian of such person when such person is a minor, or is mentally ill or otherwise incompetent, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. The division shall provide a method for confirming or certifying that a designee is acting on behalf of a subject;
   (5) Any alleged perpetrator named in the report, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. However, the investigation reports will not be released to any alleged perpetrator with pending criminal charges arising out of the facts and circumstances named in the investigation records until an indictment is returned or an information filed;
   (6) A grand jury, juvenile officer, prosecuting attorney, law enforcement officer involved in the investigation of child abuse or neglect, juvenile court or other court conducting abuse or neglect or child protective proceedings or child custody proceedings, and other federal, state and local government entities, or any agent of such entity, with a need for such information in order to carry out its responsibilities under the law to protect children from abuse or neglect;
   (7) Any person engaged in a bona fide research purpose, with the permission of the director; provided, however, that no information identifying the child named in the report as a victim or the reporters shall be made available to the researcher, unless the identifying information is essential to the research or evaluation and the child named in the report as a victim or, if the child is less than eighteen years of age, through the child's parent, or guardian provides written permission;
   (8) Any child-care facility; child-placing agency; residential-care facility, including group homes; juvenile courts; public or private elementary schools; public or private secondary schools; or any other public or private agency exercising temporary supervision over a child or providing or having care or custody of a child who may request an examination of the central registry from the division for all employees and volunteers or prospective employees and volunteers, who do or will provide services or care to children. Any agency or business recognized by the division or business which provides training and places or recommends people for employment or for volunteers in positions where they will provide services or care to
children may request the division to provide an examination of the central registry. Such agency or business shall provide verification of its status as a recognized agency. Requests for examinations shall be made to the division director or the director’s designee in writing by the chief administrative officer of the above homes, centers, public and private elementary schools, public and private secondary schools, agencies, or courts. The division shall respond in writing to that officer. The response shall include information pertaining to the nature and disposition of any report or reports of abuse or neglect revealed by the examination of the central registry. This response shall not include any identifying information regarding any person other than the alleged perpetrator of the abuse or neglect;

(9) Any parent or legal guardian who inquires about a child abuse or neglect report involving a specific person or child-care facility who does or may provide services or care to a child of the person requesting the information. Request for examinations shall be made to the division director or the director's designee, in writing, by the parent or legal guardian of the child and shall be accompanied with a signed and notarized release form from the person who does or may provide care or services to the child. The notarized release form shall include the full name, date of birth and Social Security number of the person who does or may provide care or services to a child. The response shall include information pertaining to the nature and disposition of any report or reports of abuse or neglect revealed by the examination of the central registry. This response shall not include any identifying information regarding any person other than the alleged perpetrator of the abuse or neglect. The response shall be given within ten working days of the time it was received by the division;

(10) Any person who inquires about a child abuse or neglect report involving a specific child-care facility, child-placing agency, residential-care facility, public and private elementary schools, public and private secondary schools, juvenile court or other state agency. The information available to these persons is limited to the nature and disposition of any report contained in the central registry and shall not include any identifying information pertaining to any person mentioned in the report;

(11) Any state agency acting pursuant to statutes regarding a license of any person, institution, or agency which provides care for or services to children;

(12) Any child fatality review panel established pursuant to section 210.192 or any state child fatality review panel established pursuant to section 210.195;

(13) Any person who is a tenure-track or full-time research faculty member at an accredited institution of higher education engaged in scholarly research, with the permission of the director. Prior to the release of any identifying information, the director shall require the researcher to present a plan for maintaining the confidentiality of the identifying information. The researcher shall be prohibited from releasing the identifying information of individual cases.

3. Only the following persons shall have access to records maintained by the division pursuant to section 210.152 for which the division has received a report of child abuse and neglect and which the division has determined that there is insufficient evidence or in which the division proceeded with the family assessment and services approach:

(1) Appropriate staff of the division;

(2) Any child named in the report as a victim, or a legal representative, or the parent or guardian of such person when such person is a minor, or is mentally ill or otherwise incompetent. The names or other identifying information of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a
person's life or safety may be in danger, the identifying information shall not be released. The division shall provide for a method for confirming or certifying that a designee is acting on behalf of a subject;

(3) Any alleged perpetrator named in the report, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. However, the investigation reports will not be released to any alleged perpetrator with pending criminal charges arising out of the facts and circumstances named in the investigation records until an indictment is returned or an information filed;

(4) Any child fatality review panel established pursuant to section 210.192 or any state child fatality review panel established pursuant to section 210.195;

(5) Appropriate criminal justice agency personnel or juvenile officer;

(6) Multidisciplinary agency or individual including a physician or physician's designee who is providing services to the child or family, with the consent of the parent or guardian of the child or legal representative of the child;

(7) Any person engaged in bona fide research purpose, with the permission of the director; provided, however, that no information identifying the subjects of the reports or the reporters shall be made available to the researcher, unless the identifying information is essential to the research or evaluation and the subject, or if a child, through the child's parent or guardian, provides written permission.

4. Any person who knowingly violates the provisions of this section, or who permits or encourages the unauthorized dissemination of information contained in the information system or the central registry and in reports and records made pursuant to sections 210.109 to 210.183, shall be guilty of a class A misdemeanor.

5. Nothing in this section shall preclude the release of findings or information about cases which resulted in a child fatality or near fatality. Such release is at the sole discretion of the director of the department of social services, based upon a review of the potential harm to other children within the immediate family.

§ 210.152. Reports of abuse or neglect; division to retain certain information; confidential, released only to authorized persons; report removal, when; notice of agency's determination to retain, remove, sent when; case reopened, when; administrative review of determination; de novo judicial review.

Mo. Rev. Stat. § 210.152

1. All identifying information, including telephone reports reported pursuant to section 210.145, relating to reports of abuse or neglect received by the division shall be retained by the division and removed from the records of the division as follows:

(1) For investigation reports contained in the central registry, identifying information shall be retained by the division;

(2) (a) For investigation reports initiated against a person required to report pursuant to section 210.115, where insufficient evidence of abuse or neglect is found by the division and where the division determines the allegation of abuse or neglect was made maliciously, for purposes of harassment or in retaliation for the filing of a report by a person required to report, identifying information shall be expunged by the division within forty-five days from the conclusion of the investigation;
(b) For investigation reports, where insufficient evidence of abuse or neglect is found by the division and where the division determines the allegation of abuse or neglect was made maliciously, for purposes of harassment or in retaliation for the filing of a report, identifying information shall be expunged by the division within forty-five days from the conclusion of the investigation;

(c) For investigation reports initiated by a person required to report under section 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying information shall be retained for five years from the conclusion of the investigation. For all other investigation reports where insufficient evidence of abuse or neglect is found by the division, identifying information shall be retained for two years from the conclusion of the investigation. Such reports shall include any exculpatory evidence known by the division, including exculpatory evidence obtained after the closing of the case. At the end of such time period, the identifying information shall be removed from the records of the division and destroyed;

(d) For investigation reports where the identification of the specific perpetrator or perpetrators cannot be substantiated and the division has specific evidence to determine that a child was abused or neglected, the division shall retain the report and all identifying information but shall not place an unknown perpetrator on the central registry. The division shall retain all identifying information for the purpose of utilizing such information in subsequent investigations or family assessments of the same child, the child's family, or members of the child's household. The division shall retain and disclose information and findings in the same manner as the division retains and discloses family assessments. If the division made a finding of abuse or neglect against an unknown perpetrator prior to August 28, 2017, the division shall remove the unknown perpetrator from the central registry but shall retain and utilize all identifying information as otherwise provided in this section;

(3) For reports where the division uses the family assessment and services approach, identifying information shall be retained by the division;

(4) For reports in which the division is unable to locate the child alleged to have been abused or neglected, identifying information shall be retained for ten years from the date of the report and then shall be removed from the records of the division.

2. Within ninety days, or within one hundred twenty days in cases involving sexual abuse, or until the division's investigation is complete in cases involving a child fatality or near-fatality, after receipt of a report of abuse or neglect that is investigated, the alleged perpetrator named in the report and the parents of the child named in the report, if the alleged perpetrator is not a parent, shall be notified in writing of any determination made by the division based on the investigation. The notice shall advise either:

(1) That the division has determined by a probable cause finding prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists and that the division shall retain all identifying information regarding the abuse or neglect; that such information shall remain confidential and will not be released except to law enforcement agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's determination through a review by the child abuse and neglect review board as provided in subsection 4 of this section;

(2) That the division has not made a probable cause finding or determined
by a preponderance of the evidence that abuse or neglect exists; or
(3) The division has been unable to determine the identity of the perpetrator of the abuse or neglect. The notice shall also inform the child's parents and legal guardian that the division shall retain, utilize, and disclose all information and findings as provided in family assessment and services cases.

3. The children's division may reopen a case for review if new, specific, and credible evidence is obtained.

4. Any person named in an investigation as a perpetrator who is aggrieved by a determination of abuse or neglect by the division as provided in this section may seek an administrative review by the child abuse and neglect review board pursuant to the provisions of section 210.153. Such request for review shall be made within sixty days of notification of the division's decision under this section. In those cases where criminal charges arising out of facts of the investigation are pending, the request for review shall be made within sixty days from the court's final disposition or dismissal of the charges.

5. In any such action for administrative review, the child abuse and neglect review board shall sustain the division's determination if such determination was supported by evidence of probable cause prior to August 28, 2004, or is supported by a preponderance of the evidence after August 28, 2004, and is not against the weight of such evidence. The child abuse and neglect review board hearing shall be closed to all persons except the parties, their attorneys and those persons providing testimony on behalf of the parties.

6. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect review board, the alleged perpetrator may seek de novo judicial review in the circuit court in the county in which the alleged perpetrator resides and in circuits with split venue, in the venue in which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator is not a resident of the state, proper venue shall be in Cole County. The case may be assigned to the family court division where such a division has been established. The request for a judicial review shall be made within sixty days of notification of the division's decision. In reviewing such decisions, the circuit court shall provide the alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator may subpoena any witnesses except the alleged victim or the reporter. However, the circuit court shall have the discretion to allow the parties to submit the case upon a stipulated record.

7. In any such action for administrative review, the child abuse and neglect review board shall notify the child or the parent, guardian or legal representative of the child that a review has been requested.

§ 210.155. Division to provide programs and information; division to continuously inform persons required to report and public as to toll free telephones available for abuse reports.
*Mo. Rev. Stat.* § 210.155

1. The division shall, on a continuing basis, undertake and maintain programs to inform all persons required to report abuse or neglect pursuant to sections 210.110 to 210.165 and the public of the nature, problem, and extent of abuse and neglect, and of the remedial and therapeutic services available to children and their families; and to encourage self-reporting and the voluntary acceptance of such services. In addition, those mandated to report pursuant to this act shall be informed by the division of their duties, options, and responsibilities in accordance with this act.
2. The division shall conduct ongoing training programs in relation to sections 210.110 to 210.165 for agency staff.

3. The division shall continuously publicize to mandated reporters of abuse or neglect and to the public the existence and the number of the twenty-four hour, statewide toll free telephone service to receive reports of abuse or neglect.

Mo. Rev. Stat. § 210.115

1. Any person violating any provision of sections 210.110 to 210.165 is guilty of a class A misdemeanor.

2. Any person who intentionally files a false report of child abuse or neglect shall be guilty of a class A misdemeanor.

3. Every person who has been previously convicted of making a false report to the children's division or its predecessor agency, the division of family services, and who is subsequently convicted of making a false report under subsection 2 of this section is guilty of a class D felony and shall be punished as provided by law.

4. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

§ 160.261. Discipline, written policy established by local boards of education-contents-reporting requirements-additional restrictions for certain suspensions-weapons offense, mandatory suspension or expulsion-no civil liability for authorized personnel-spanking not child abuse, when-investigation procedure-officials falsifying reports, penalty.
Mo. Rev. Stat. § 160.261

1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in section 556.061 to another person while on school property, including a school bus...
in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

1. First degree murder under section 565.020;
2. Second degree murder under section 565.021;
3. Kidnapping under section 565.110 as it existed prior to January 1, 2017, or kidnapping in the first degree under section 565.110;
4. First degree assault under section 565.050;
5. Rape in the first degree under section 566.030;
6. Sodomy in the first degree under section 566.060;
7. Burglary in the first degree under section 569.160;
8. Burglary in the second degree under section 569.170;
9. Robbery in the first degree under section 569.020 as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023;
10. Distribution of drugs under section 195.211 as it existed prior to January 1, 2017, or manufacture of a controlled substance under section 579.055;
11. Distribution of drugs to a minor under section 195.212 as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020;
12. Arson in the first degree under section 569.040;
13. Voluntary manslaughter under section 565.023;
14. Involuntary manslaughter under section 565.024 as it existed prior to January 1, 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary manslaughter in the second degree under section 565.027;
15. Second degree assault under section 565.060 as it existed prior to January 1, 2017, or second degree assault under section 565.052;
16. Rape in the second degree under section 566.031;
17. Felonious restraint under section 565.120 as it existed prior to January 1, 2017, or kidnapping in the second degree under section 565.120;
18. Property damage in the first degree under section 569.100;
19. The possession of a weapon under chapter 571;
20. Child molestation in the first degree pursuant to section 566.067 as it existed prior to January 1, 2017, or child molestation in the first, second, or third degree pursuant to section 566.067, 566.068, or 566.069;
21. Sodomy in the second degree pursuant to section 566.061;
22. Sexual misconduct involving a child pursuant to section 566.083;
23. Sexual abuse in the first degree pursuant to section 566.100;
24. Harassment under section 565.090 as it existed prior to January 1, 2017, or harassment in the first degree under section 565.090; or
25. Stalking under section 565.225 as it existed prior to January 1, 2017, or stalking in the first degree under section 565.225;

committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his
or her suspension the requirement that such student is not allowed, while on such
suspension, to be within one thousand feet of any school property in the school
district where such student attended school or any activity of that district, regardless
of whether or not the activity takes place on district property unless:
   (1) Such student is under the direct supervision of the student's parent,
        legal guardian, or custodian and the superintendent or the superintendent's
        designee has authorized the student to be on school property;
   (2) Such student is under the direct supervision of another adult designated
        by the student's parent, legal guardian, or custodian, in advance, in writing,
        to the principal of the school which suspended the student and the
        superintendent or the superintendent's designee has authorized the student
        to be on school property;
   (3) Such student is enrolled in and attending an alternative school that is
        located within one thousand feet of a public school in the school district
        where such student attended school; or
   (4) Such student resides within one thousand feet of any public school in
        the school district where such student attended school in which case such
        student may be on the property of his or her residence without direct adult
        supervision.

4. Any student who violates the condition of suspension required pursuant to
subsection 3 of this section may be subject to expulsion or further suspension
pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making this
determination consideration shall be given to whether the student poses a threat to
the safety of any child or school employee and whether such student's unsupervised
presence within one thousand feet of the school is disruptive to the educational
process or undermines the effectiveness of the school's disciplinary policy. Removal
of any pupil who is a student with a disability is subject to state and federal
procedural rights. This section shall not limit a school district's ability to:
   (1) Prohibit all students who are suspended from being on school property
       or attending an activity while on suspension;
   (2) Discipline students for off-campus conduct that negatively affects the
       educational environment to the extent allowed by law.

5. The policy shall provide for a suspension for a period of not less than one year,
or expulsion, for a student who is determined to have brought a weapon to school,
including but not limited to the school playground or the school parking lot, brought a
weapon on a school bus or brought a weapon to a school activity whether on or off of
the school property in violation of district policy, except that:
   (1) The superintendent or, in a school district with no high school, the
       principal of the school which such child attends may modify such suspension
       on a case-by-case basis; and
   (2) This section shall not prevent the school district from providing
       educational services in an alternative setting to a student suspended under
       the provisions of this section.

6. For the purpose of this section, the term "weapon" shall mean a firearm as
defined under 18 U.S.C. Section 921 and the following items, as defined in section
571.010: a blackjack, a concealable firearm, an explosive weapon, a firearm, a
firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon,
 a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall
not be construed to prohibit a school board from adopting a policy to allow a Civil
War reenactor to carry a Civil War era weapon on school property for educational
purposes so long as the firearm is unloaded. The local board of education shall
define weapon in the discipline policy. Such definition shall include the weapons
defined in this subsection but may also include other weapons.

7. All school district personnel responsible for the care and supervision of students
are authorized to hold every pupil strictly accountable for any disorderly conduct in
school or on any property of the school, on any school bus going to or returning from
school, during school-sponsored activities, or during intermission or recess periods.

8. Teachers and other authorized district personnel in public schools responsible for
the care, supervision, and discipline of schoolchildren, including volunteers selected
with reasonable care by the school district, shall not be civilly liable when acting in
conformity with the established policies developed by each board, including but not
limited to policies of student discipline or when reporting to his or her supervisor or
other person as mandated by state law acts of school violence or threatened acts of
school violence, within the course and scope of the duties of the teacher, authorized
district personnel or volunteer, when such individual is acting in conformity with
the established policies developed by the board. Nothing in this section shall be
construed to create a new cause of action against such school district, or to relieve
the school district from liability for the negligent acts of such persons.

9. Each school board shall define in its discipline policy acts of violence and any
other acts that constitute a serious violation of that policy. “Acts of violence” as
defined by school boards shall include but not be limited to exertion of physical
force by a student with the intent to do serious bodily harm to another person while
on school property, including a school bus in service on behalf of the district, or
while involved in school activities. School districts shall for each student enrolled
in the school district compile and maintain records of any serious violation of the
district's discipline policy. Such records shall be made available to teachers and other
school district employees with a need to know while acting within the scope of their
assigned duties, and shall be provided as required in section 167.020 to any school
district in which the student subsequently attempts to enroll.

10. Spanking, when administered by certificated personnel and in the presence of
a witness who is an employee of the school district, or the use of reasonable force
to protect persons or property, when administered by personnel of a school district
in a reasonable manner in accordance with the local board of education's written
policy of discipline, is not abuse within the meaning of chapter 210. The provisions
of sections 210.110 to 210.165 notwithstanding, the children's division shall not
have jurisdiction over or investigate any report of alleged child abuse arising out
of or related to the use of reasonable force to protect persons or property when
administered by personnel of a school district or any spanking administered in a
reasonable manner by any certificated school personnel in the presence of a witness
who is an employee of the school district pursuant to a written policy of discipline
established by the board of education of the school district, as long as no allegation
of sexual misconduct arises from the spanking or use of force.

11. If a student reports alleged sexual misconduct on the part of a teacher or other
school employee to a person employed in a school facility who is required to report
such misconduct to the children's division under section 210.115, such person and
the superintendent of the school district shall report the allegation to the children's
division as set forth in section 210.115. Reports made to the children's division under
this subsection shall be investigated by the division in accordance with the provisions
of sections 210.145 to 210.153 and shall not be investigated by the school district
under subsections 12 to 20 of this section for purposes of determining whether the
allegations should or should not be substantiated. The district may investigate the
allegations for the purpose of making any decision regarding the employment of the
accused employee.

12. Upon receipt of any reports of child abuse by the children's division other than
reports provided under subsection 11 of this section, pursuant to sections 210.110 to
210.165 which allegedly involve personnel of a school district, the children's division
shall notify the superintendent of schools of the district or, if the person named in
the alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred.

13. If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel or the use of reasonable force to protect persons or property when administered by school personnel pursuant to a written policy of discipline or that the report was made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the children's division and take no further action. In all matters referred back to the children's division, the division shall treat the report in the same manner as other reports of alleged child abuse received by the division.

14. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel or the use of reasonable force to protect persons or property when administered by personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the law enforcement in the county in which the alleged incident occurred.

15. The report shall be jointly investigated by the law enforcement officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by a law enforcement officer and the president of the school board or such president's designee.

16. The investigation shall begin no later than forty-eight hours after notification from the children's division is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident.

17. The law enforcement officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the children's division.

18. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated.

19. The school board shall consider the separate reports referred to in subsection 17 of this section and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

   (1) The report of the alleged child abuse is unsubstantiated. The law enforcement officer and the investigating school board personnel agree that there was not a preponderance of evidence to substantiate that abuse occurred;

   (2) The report of the alleged child abuse is substantiated. The law enforcement officer and the investigating school district personnel agree that the preponderance of evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

   (3) The issue involved in the alleged incident of child abuse is unresolved. The law enforcement officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.
20. The findings and conclusions of the school board under subsection 19 of this section shall be sent to the children's division. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the children's division central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the names of the parties allegedly involved shall not be entered into the central registry of the children's division unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

21. Any superintendent of schools, president of a school board or such person's designee or law enforcement officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

22. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.

§ 162.069. Written policy concerning teacher-student and employee-student communication--training for mandatory reporters of child abuse or neglect--training on identifying signs of sexual abuse.
Mo. Rev. Stat. § 162.069

1. Every school district shall, by March 1, 2012, promulgate a written policy concerning employee-student communication. The governing body of each charter school shall adopt a written policy concerning employee-student communication by January 1, 2014. Such policy shall include, but not be limited to, the use of electronic media and other mechanisms to prevent improper communications between staff members and students.

2. The school board of each school district and the governing body of each charter school shall, by January 1, 2014, adopt and implement training guidelines and an annual training program for all school employees who are mandatory reporters of child abuse or neglect under section 210.115.

3. Every school district and the governing body of each charter school shall, by July 1, 2014, include in its teacher and employee training a component that provides up-to-date and reliable information on identifying signs of sexual abuse in children and danger signals of potentially abusive relationships between children and adults. The training shall emphasize the importance of mandatory reporting of abuse under section 210.115 including the obligation of mandated reporters to report suspected abuse by other mandated reporters, and how to establish an atmosphere of trust so that students feel their school has concerned adults with whom they feel comfortable discussing matters related to abuse. The training shall also emphasize that:

(1) All mandatory reporters shall, upon finding reasonable cause, directly and immediately report suspected child abuse or neglect as provided in section 210.115;
(2) No supervisor or administrator may impede or inhibit any reporting under section 210.115; and
(3) No person making a report under section 210.115 shall be subject to any sanction, including any adverse employment action, for making such report.

§191.737. Children exposed to substance abuse, referral by physician to department of health and senior services--services to be initiated within seventy-two hours--physician making referral immune from civil liability--confidentiality of report.
Mo. Rev. Stat. § 191.737

1. Notwithstanding the physician-patient privilege, any physician or health care provider may refer to the department of health and senior services families in which children may have been exposed to a controlled substance listed in section 195.017, schedules I, II and III, or alcohol as evidenced by:
   (1) Medical documentation of signs and symptoms consistent with controlled substances or alcohol exposure in the child at birth; or
   (2) Results of a confirmed toxicology test for controlled substances performed at birth on the mother or the child; and
   (3) A written assessment made or approved by a physician, health care provider, or by the children's division which documents the child as being at risk of abuse or neglect.

2. Nothing in this section shall preclude a physician or other mandated reporter from reporting abuse or neglect of a child as required pursuant to the provisions of section 210.115.

3. Upon notification pursuant to subsection 1 of this section, the department of health and senior services shall offer service coordination services to the family. The department of health and senior services shall coordinate social services, health care, mental health services, and needed education and rehabilitation services. Service coordination services shall be initiated within seventy-two hours of notification. The department of health and senior services shall notify the department of social services and the department of mental health within seventy-two hours of initial notification.

4. Any physician or health care provider complying with the provisions of this section, in good faith, shall have immunity from any civil liability that might otherwise result by reason of such actions.

5. Referral and associated documentation provided for in this section shall be confidential and shall not be used in any criminal prosecution.

§ 352.400. Ministers, duty to report child abuse and neglect--definitions--designation of an agent.
Mo. Rev. Stat. § 352.400

1. As used in this section, the following words and phrases shall mean:
   (1) "Abuse", any physical injury, sexual abuse, or emotional abuse, injury or harm to a child under circumstances required to be reported pursuant to sections 210.109 to 210.183;
   (2) "Child", any person regardless of physical or mental condition, under eighteen years of age;
   (3) "Minister", any person while practicing as a minister of the gospel, clergyperson, priest, rabbi, Christian Science practitioner, or other person serving in a similar capacity for any religious organization who is responsible for or who has supervisory authority over one who is responsible for the
care, custody, and control of a child or has access to a child;
(4) “Neglect”, failure to provide the proper or necessary support or services by those responsible for the care, custody, and control of a child, under circumstances required to be reported pursuant to sections 210.109 to 210.183;
(5) “Religious organization”, any society, sect, persuasion, mission, church, parish, congregation, temple, convention or association of any of the foregoing, diocese or presbytery, or other organization, whether or not incorporated, that meets at more or less regular intervals for worship of a supreme being or higher power, or for mutual support or edification in piety or with respect to the idea that a minimum standard of behavior from the standpoint of overall morality is to be observed, or for the sharing of common religious bonds and convictions;
(6) “Report”, the communication of an allegation of abuse or neglect pursuant to sections 210.109 to 210.183.

2. When a minister or agent designated pursuant to subsection 3 of this section has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect under circumstances required to be reported pursuant to sections 210.109 to 210.183, the minister or designated agent shall immediately report or cause a report to be made as provided in sections 210.109 to 210.183. Notwithstanding any other provision of this section or sections 210.109 to 210.183, a minister shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity.

3. A religious organization may designate an agent or agents required to report pursuant to sections 210.109 to 210.183 in an official capacity on behalf of the religious organization. In the event a minister, official or staff member of a religious organization has probable cause to believe that the child has been subjected to abuse or neglect under circumstances required to be reported pursuant to sections 210.109 to 210.183 and the minister, official or staff member of the religious organization does not personally make a report pursuant to sections 210.109 to 210.183, the designated agent of the religious organization shall be notified. The designated agent shall then become responsible for making or causing the report to be made pursuant to sections 210.109 to 210.183. This section shall not preclude any person from reporting abuse or neglect as otherwise provided by law.

Mo. Rev. Stat. § 573.215

1. A person commits the offense of failure to report child pornography if he or she being a film and photographic print processor, computer provider, installer or repair person, or any internet service provider who has knowledge of or observes, within the scope of the person's professional capacity or employment, any film, photograph, videotape, negative, slide, or computer-generated image or picture depicting a child under eighteen years of age engaged in an act of sexual conduct fails to report such instance to any law enforcement agency immediately or as soon as practically possible.

2. The offense of failure to report child pornography is a class B misdemeanor.

3. Nothing in this section shall be construed to require a provider of electronic communication services or remote computing services to monitor any user, subscriber or customer of the provider, or the content of any communication of any user, subscriber or customer of the provider.

§ 590.040. Minimum hours of basic training required – Peace officers.
Mo. Rev. Stat. § 590.040
1. The POST commission shall set the minimum number of hours of basic training for licensure as a peace officer no lower than four hundred seventy and no higher than six hundred, with the following exceptions:

   (1) Up to one thousand hours may be mandated for any class of license required for commission by a state law enforcement agency;
   (2) As few as one hundred twenty hours may be mandated for any class of license restricted to commission as a reserve peace officer with police powers limited to the commissioning political subdivision;
   (3) Persons validly licensed on August 28, 2001, may retain licensure without additional basic training;
   (4) Persons licensed and commissioned within a county of the third classification before July 1, 2002, may retain licensure with one hundred twenty hours of basic training if the commissioning political subdivision has adopted an order or ordinance to that effect;
   (5) Persons serving as a reserve officer on August 27, 2001, within a county of the first classification or a county with a charter form of government and with more than one million inhabitants on August 27, 2001, having previously completed a minimum of one hundred sixty hours of training, shall be granted a license necessary to function as a reserve peace officer only within such county. For the purposes of this subdivision, the term “reserve officer” shall mean any person who serves in a less than full-time law enforcement capacity, with or without pay and who, without certification, has no power of arrest and who, without certification, must be under the direct and immediate accompaniment of a certified peace officer of the same agency at all times while on duty; and
   (6) The POST commission shall provide for the recognition of basic training received at law enforcement training centers of other states, the military, the federal government and territories of the United States regardless of the number of hours included in such training and shall have authority to require supplemental training as a condition of eligibility for licensure.

2. The director shall have the authority to limit any exception provided in subsection 1 of this section to persons remaining in the same commission or transferring to a commission in a similar jurisdiction.

3. The basic training of every peace officer, except agents of the conservation commission, shall include at least thirty hours of training in the investigation and management of cases involving domestic and family violence. Such training shall include instruction, specific to domestic and family violence cases, regarding: report writing; physical abuse, sexual abuse, child fatalities and child neglect; interviewing children and alleged perpetrators; the nature, extent and causes of domestic and family violence; the safety of victims, other family and household members and investigating officers; legal rights and remedies available to victims, including rights to compensation and the enforcement of civil and criminal remedies; services available to victims and their children; the effects of cultural, racial and gender bias in law enforcement; and state statutes. Said curriculum shall be developed and presented in consultation with the department of health and senior services, the children's division, public and private providers of programs for victims of domestic and family violence, persons who have demonstrated expertise in training and education concerning domestic and family violence, and the Missouri coalition against domestic violence.
§ 41-3-201. Reports
Mont. Code Ann. § 41-3-201

(1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:
(a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;
(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;
(c) religious healers;
(d) school teachers, other school officials, and employees who work during regular school hours;
(e) a social worker, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;
(f) a foster care, residential, or institutional worker;
(g) a peace officer or other law enforcement official;
(h) a member of the clergy, as defined in 15-6-201(2)(b);
(i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect; or
(j) an employee of an entity that contracts with the department to provide direct services to children.

(3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.

(4) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.

(5)
(a) When a professional or official required to report under subsection (2) makes a report, the department may share information with:
(i) that professional or official;
(ii) other individuals with whom the professional or official works in an official capacity if the individuals are part of a team that responds to matters involving the child or the person about whom the report was made and the professional or official has asked that the information be shared with the individuals; or
(iii) the child abuse and neglect review commission established in 2-15-2019.
(b) The department may provide information in accordance with 41-3-202(8) and also share information about the investigation, limited to its outcome and any subsequent action that will be taken on behalf of the child who is the subject of the report.
(c) Individuals who receive information pursuant to this subsection (5) shall maintain the confidentiality of the information as required by 41-3-205.

(6)
(a) Except as provided in subsection (6)(b) or (6)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.
(b) A member of the clergy or a priest is not required to make a report under this section if:
(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;
(ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and
(iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.

(c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

(7) The reports referred to under this section must contain:
   (a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;
   (b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;
   (c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible for the injury or neglect; and
   (d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter.

(Subsection (5)(a)(iii) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)

§ 41-3-202. Action on reporting.

Mont. Code Ann. § 41-3-202

(1) Upon receipt of a report that a child is or has been abused or neglected, the department shall promptly assess the information contained in the report and make a determination regarding the level of response required and the timeframe within which action must be initiated. If the department determines that an investigation is required, a social worker, the county attorney, or a peace officer shall promptly conduct a thorough investigation into the circumstances surrounding the allegations of abuse or neglect of the child. The investigation may include an investigation at the home of the child involved, the child's school or day-care facility, or any other place where the child is present and into all other nonfinancial matters that in the discretion of the investigator are relevant to the investigation. In conducting an investigation under this section, a social worker may not inquire into the financial status of the child's family or of any other person responsible for the child's care, except as necessary to ascertain eligibility for state or federal assistance programs or to comply with the provisions of 41-3-446.

(2) An initial investigation of alleged abuse or neglect may be conducted when an anonymous report is received. However, the investigation must within 48 hours result in the development of independent, corroborative, and attributable information in order for the investigation to continue. Without the development of independent, corroborative, and attributable information, a child may not be removed from the home.

(3) The social worker is responsible for assessing the family and planning for the child. If the child is treated at a medical facility, the social worker, county attorney, or peace officer, consistent with reasonable medical practice, has the right of access to the child for interviews, photographs, and securing physical evidence and has the right of access to relevant hospital and medical records pertaining to the child. If an
interview of the child is considered necessary, the social worker, county attorney, or peace officer may conduct an interview of the child. The interview may be conducted in the presence of the parent or guardian or an employee of the school or day-care facility attended by the child.

(4) Subject to 41-3-205(3), if the child's interview is audiotaped or videotaped, an unedited audiotape or videotape with audio track must be made available, upon request, for unencumbered review by the family.

(5) (a) If from the investigation the department has reasonable cause to suspect that the child suffered abuse or neglect, the department may provide emergency protective services to the child, pursuant to 41-3-301, or voluntary protective services pursuant to 41-3-302, and may provide protective services to any other child under the same care. The department shall:

(i) after interviewing the parent or guardian, if reasonably available, document its determination regarding abuse or neglect of a child;
and
(ii) notify the child's family of its investigation and determination, unless the notification can reasonably be expected to result in harm to the child or other person.

(b) If from the investigation it is determined that the child has not suffered abuse or neglect and the initial report is determined to be unfounded, the department and the social worker, county attorney, or peace officer who conducted the investigation into the circumstances surrounding the allegations of abuse or neglect shall destroy all of their records concerning the report and the investigation. The destruction must be completed within 30 days of the determination that the child has not suffered abuse or neglect.

(c) (i) If the report is unsubstantiated, the department and the social worker who conducted the investigation into the circumstances surrounding the initial allegations of abuse or neglect shall destroy all of the records, except for medical records, concerning the unsubstantiated report and the investigation within 30 days after the end of the 3-year period starting from the date the report was determined to be unsubstantiated, unless:

(A) there had been a previous or there is a subsequent substantiated report concerning the same person; or
(B) an order has been issued under this chapter based on the circumstances surrounding the initial allegations.

(ii) A person who is the subject of an unsubstantiated report that was made prior to October 1, 2003, and after which a period of 3 years has elapsed without there being submitted a subsequent substantiated report or an order issued under this chapter based on the circumstances surrounding the initial allegations may request that the department destroy all of the records concerning the unsubstantiated report as provided in subsection (5)(c)(i).

(6) The investigating social worker, within 60 days of commencing an investigation, shall also furnish a written report to the department and, upon request, to the family. Subject to subsections (5)(b) and (5)(c), the department shall maintain a record system documenting investigations and determinations of child abuse and neglect cases.

(7) Any person reporting abuse or neglect that involves acts or omissions on the part of a public or private residential institution, home, facility, or agency is responsible for ensuring that the report is made to the department.

(8) The department shall, upon request from any reporter of alleged child abuse or
neglect, verify whether the report has been received, describe the level of response and timeframe for action that the department has assigned to the report, and confirm that it is being acted upon.

§ 41-3-203. Immunity from liability.
Mont. Code Ann. § 41-3-203

(1) Anyone investigating or reporting any incident of child abuse or neglect under 41-3-201 or 41-3-202, participating in resulting judicial proceedings, or furnishing hospital or medical records as required by 41-3-202 is immune from any liability, civil or criminal, that might otherwise be incurred or imposed unless the person was grossly negligent or acted in bad faith or with malicious purpose or provided information knowing the information to be false.

(2) A person who provides information pursuant to 41-3-201 that is substantiated by the department or a person who uses information received pursuant to 41-3-205 that is substantiated by the department to refuse to hire or to discharge a prospective or current employee, volunteer, or other person who through employment or volunteer activities may have unsupervised contact with children is immune from civil liability unless the person acted in bad faith or with malicious purpose.

§ 41-3-204. Admissibility and preservation of evidence.
Mont. Code Ann. § 41-3-204

(1) In any proceeding resulting from a report made pursuant to the provisions of this chapter or in any proceeding for which the report or its contents are sought to be introduced into evidence, the report or its contents or any other fact related to the report or to the condition of the child who is the subject of the report may not be excluded on the ground that the matter is or may be the subject of a privilege related to the examination or treatment of the child and granted in Title 26, chapter 1, part 8, except the attorney-client privilege granted by 26-1-803.

(2) A person or official required to report under 41-3-201 may take or cause to be taken photographs of the area of trauma visible on a child who is the subject of a report. The cost of photographs taken under this section must be paid by the department.

(3) When a person required to report under 41-3-201 finds visible evidence that a child has suffered abuse or neglect, the person shall include in the report either a written description or photographs of the evidence.

(4) A physician, either in the course of providing medical care to a minor or after consultation with child protective services, the county attorney, or a law enforcement officer, may require x-rays to be taken when, in the physician’s professional opinion, there is a need for radiological evidence of suspected abuse or neglect. X-rays may be taken under this section without the permission of the parent or guardian. The cost of the x-rays ordered and taken under this section must be paid by the county child protective service agency.

(5) All written, photographic, or radiological evidence gathered under this section must be sent to the local affiliate of the department at the time that the written confirmation report is sent or as soon after the report is sent as is possible. If a confirmation report is not made, the evidence and the initial report must be destroyed as provided in 41-3-202.

§ 41-3-205. Confidentiality - disclosure exceptions.
Mont. Code Ann. § 41-3-205
(1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of
a child;
(m) a child fatality review team recognized by the department, including the
child abuse and neglect review commission established in 2-15-2019;
(n) a department or agency investigating an applicant for a license or
registration that is required to operate a youth care facility, day-care facility,
or child-placing agency;
(o) a person or entity who is carrying out background, employment-related,
or volunteer-related screening of current or prospective employees or
volunteers who have or may have unsupervised contact with children
through employment or volunteer activities. A request for information
under this subsection (3)(o) must be made in writing. Disclosure under this
subsection (3)(o) is limited to information that indicates a risk to children,
persons with developmental disabilities, or older persons posed by the
person about whom the information is sought, as determined by the
department.
p) the news media, if disclosure is limited to confirmation of factual
information regarding how the case was handled and if disclosure does not
violate the privacy rights of the child or the child's parent or guardian, as
determined by the department;
(q) an employee of the department or other state agency if disclosure of the
records is necessary for administration of programs designed to benefit the
child;
(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of
an Indian child if disclosure of the records is necessary to meet requirements
of the federal Indian Child Welfare Act;
s) a juvenile probation officer who is working in an official capacity with the
child who is the subject of a report in the records;
t) an attorney who is hired by or represents the department if disclosure is
necessary for the investigation, defense, or prosecution of a case involving
child abuse or neglect;
u) a foster care review committee established under 41-3-115 or, when
applicable, a citizen review board established under Title 41, chapter 3, part
10;
(v) a school employee participating in an interview of a child by a social
worker, county attorney, or peace officer, as provided in 41-3-202;
w) a member of a county interdisciplinary child information and school
safety team formed under the provisions of 52-2-211;
x) members of a local interagency staffing group provided for in 52-2-203;
y) a member of a youth placement committee formed under the provisions
of 41-5-121; or
(z) a principal of a school or other employee of the school district authorized
by the trustees of the district to receive the information with respect to a
student of the district who is a client of the department.

(4)
(a) The records described in subsection (3) must be disclosed to a member
of the United States congress or a member of the Montana legislature if all
of the following requirements are met:
(i) the member receives a written inquiry regarding a child and
whether the laws of the United States or the state of Montana that
protect children from abuse or neglect are being complied with or
whether the laws need to be changed to enhance protections for
children;
(ii) the member submits a written request to the department
requesting to review the records relating to the written inquiry. The
member's request must include a copy of the written inquiry, the
name of the child whose records are to be reviewed, and any other
information that will assist the department in locating the records.
(iii) before reviewing the records, the member:
(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for unauthorized release of the information; and
(B) receives from the department an orientation of the content and structure of the records.

(b) Records disclosed pursuant to subsection (4)(a) are confidential, must be made available for the member to view at a location determined by the department but may not be copied, recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's possession.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5)

(a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:
(I) the attorney general;
(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;
(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or
(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:
(i) the death of the child as a result of child abuse or neglect;
(ii) a sexual offense, as defined in 46-23-502, against the child;
(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502; or
(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c)

(i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:
(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or
(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special
advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a) and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or guardian's attorney must be provided without cost.


§ 41-3-206. Procedure in case of child's death.
Mont. Code Ann. § 41-3-206

(1) A person or official required to report by law who has reasonable cause to suspect that a child has died as a result of child abuse or neglect shall report the person's suspicion to the appropriate medical examiner or law enforcement officer. Any other person who has reasonable cause to suspect that a child has died as a result of child abuse or neglect may report the person's suspicion to the appropriate medical examiner or law enforcement officer.

(2) The medical examiner or coroner shall investigate the report and submit findings, in writing, to the local law enforcement agency, the appropriate county attorney, the local child protective service, the family of the deceased child, and, if the person making the report is a physician, the physician.

§ 41-3-207. Penalty for failure to report.
Mont. Code Ann. § 41-3-207

(1) Any person, official, or institution required by law to report known or suspected child abuse or neglect who fails to do so or who prevents another person from reasonably doing so is civilly liable for the damages proximately caused by such failure or prevention.

(2) Any person or official required by law to report known or suspected child abuse or neglect who purposely or knowingly fails to report known child abuse or neglect
or purposely or knowingly prevents another person from doing so is guilty of a
misdemeanor.

§ 40-6-406. Medical care - report of abuse or neglect - report to
department.
Mont. Code Ann. § 40-6-406

(1) An emergency services provider that is not a hospital and that takes a newborn into temporary protective custody under 40-6-405 shall transfer the newborn to a hospital. The hospital shall accept a newborn transferred to the hospital by an emergency services provider in compliance with this part and shall take the newborn into temporary protective custody.

(2) A hospital that takes a newborn into temporary protective custody under this part must have the newborn examined by a physician. If a physician who examines the newborn either determines that there is reason to suspect the newborn has experienced abuse or neglect, other than being surrendered to an emergency services provider under 40-6-405, or comes to a reasonable belief that the infant is not a newborn, the physician shall immediately report to the department as required under 41-3-201. If the actual date of birth of the infant is not known, the physician shall determine a birth date based on the physician's examination of the infant.

(3) If a physician is not required to report to the department under subsection (2), the hospital shall, no later than the first business day after taking possession of the newborn, notify the department that the hospital has taken a newborn into temporary protective custody under this part.

§ 46-4-307. Sexual abuse of children - report to national center for missing and exploited children.
Mont. Code Ann. § 46-4-307

A peace officer who, pursuant to a criminal investigation, recovers images or movies of a child in an exhibition of sexual conduct, actual or simulated, or images or movies of a child engaging in sexual conduct, actual or simulated, shall:

(1) provide the images or movies to the law enforcement contact at the child victim identification program at the national center for missing and exploited children;

(2) request the law enforcement contact at the child victim identification program to identify any images or movies recovered that contain an identified victim of child sexual abuse as defined by 45-5-625; and

(3) provide case information to the child victim identification program in any case in which the peace officer identifies a previously unidentified victim of child sexual abuse.
§ 28-711. Child subjected to abuse or neglect; report; contents; toll-free number.


(1) When any physician, any medical institution, any nurse, any school employee, any social worker, the Inspector General appointed under section 43-4317, or any other person has reasonable cause to believe that a child has been subjected to child abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in child abuse or neglect, he or she shall report such incident or cause a report of child abuse or neglect to be made to the proper law enforcement agency or to the department on the toll-free number established by subsection (2) of this section. Such report may be made orally by telephone with the caller giving his or her name and address, shall be followed by a written report, and to the extent available shall contain the address and age of the abused or neglected child, the address of the person or persons having custody of the abused or neglected child, the nature and extent of the child abuse or neglect or the conditions and circumstances which would reasonably result in such child abuse or neglect, any evidence of previous child abuse or neglect including the nature and extent, and any other information which in the opinion of the person may be helpful in establishing the cause of such child abuse or neglect and the identity of the perpetrator or perpetrators. Law enforcement agencies receiving any reports of child abuse or neglect under this subsection shall notify the department pursuant to section 28-718 on the next working day by telephone or mail.

(2) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night, any day of the week, to make reports of child abuse or neglect. Reports of child abuse or neglect not previously made to or by a law enforcement agency shall be made immediately to such agency by the department.

§ 28-713. Reports of child abuse or neglect; law enforcement agency; department; duties.


Unless an intake is assigned to alternative response, upon the receipt of a call reporting child abuse and neglect as required by section 28-711:

(1) It is the duty of the law enforcement agency to investigate the report, to take immediate steps to protect the child, and to institute legal proceedings if appropriate. In situations of alleged out-of-home child abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report of child abuse or neglect, the law enforcement agency shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged child abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged child abuse or neglect. The law enforcement agency may request assistance from the department during the investigation and shall, by the next working day, notify either the hotline or the department of receipt of the report, including whether or not an investigation is being undertaken by the law enforcement agency. A copy of all reports, whether or not an investigation is being undertaken, shall be provided to the department;

(2) In situations of alleged out-of-home child abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report of child abuse or neglect, the department shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged child abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged child abuse or neglect and any other information that the department deems
necessary. The department shall investigate for the purpose of assessing each report of child abuse or neglect to determine the risk of harm to the child involved. The department shall also provide such social services as are necessary and appropriate under the circumstances to protect and assist the child and to preserve the family;

(3) The department may make a request for further assistance from the appropriate law enforcement agency or take such legal action as may be appropriate under the circumstances;

(4) The department shall, by the next working day after receiving a report of child abuse or neglect under subdivision (1) of this section, make a written report or a summary on forms provided by the department to the proper law enforcement agency in the county and enter in the tracking system of child protection cases maintained pursuant to section 28-715 all reports of child abuse or neglect opened for investigation and any action taken; and

(5) The department shall, upon request, make available to the appropriate investigating law enforcement agency and the county attorney a copy of all reports relative to a case of suspected child abuse or neglect.

§ 28-714. Privileged communications; not grounds for excluding evidence.  

The privileged communication between patient and physician, between client and professional counselor, and between husband and wife shall not be a ground for excluding evidence in any judicial proceeding resulting from a report of child abuse or neglect required by section 28-711.

§ 28-716. Person participating in an investigation or making report; immune from liability; civil or criminal.  

Any person participating in an investigation or the making of a report of child abuse or neglect required by section 28-711 pursuant to or participating in a judicial proceeding resulting therefrom shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, except for maliciously false statements.

Annotation: The immunity from liability under state law provided by this section does not apply to a claim advanced under federal law, even if that claim is litigated in a Nebraska court. Shearer v. Leuenberger, 256 Neb. 566, 591 N.W.2d 762 (1999).

§ 28-717. Violation; penalty.  

Any person who willfully fails to make any report of child abuse or neglect required by section 28-711 shall be guilty of a Class III misdemeanor.

§ 28-719. Child abuse and neglect records; access; when.  

Upon complying with identification requirements established by regulation of the department, or when ordered by a court of competent jurisdiction, any person legally authorized by section 28-722, 28-726, or 28-727 to have access to records relating to child abuse and neglect may request and shall be immediately provided the information requested in accordance with the requirements of the Child Protection and Family Safety Act. Such information shall not include the name and address
of the person making the report of child abuse or neglect. The names and other identifying data and the dates and the circumstances of any persons requesting or receiving information from the central registry of child protection cases maintained pursuant to section 28-718 shall be entered in the central registry record.

§ 28-722. Central registry; subject of report; access to information.  

Upon request, a subject of the report of child abuse or neglect or, if such subject is a minor or otherwise legally incompetent, the guardian or guardian ad litem of the subject, shall be entitled to receive a copy of all information contained in the central registry of child protection cases maintained pursuant to section 28-718 pertaining to his or her case. The department shall not release data that would be harmful or detrimental or that would identify or locate a person who, in good faith, made a report of child abuse or neglect or cooperated in a subsequent investigation unless ordered to do so by a court of competent jurisdiction.

§ 28-725. Information, report; confidential; violation; penalty.  

All information of the department concerning reports of child abuse or neglect of noninstitutional children, including information in the tracking system of child protection cases maintained pursuant to section 28-715 or records in the central registry of child protection cases maintained pursuant to section 28-718, and all information of the department generated as a result of such reports or records, shall be confidential and shall not be disclosed except as specifically authorized by the Child Protection and Family Safety Act and section 81-3126 or other applicable law. The subject of the report of child abuse or neglect may authorize any individual or organization to receive the following information from the central registry of child protection cases maintained pursuant to section 28-718 which relates or pertains to him or her: (1) The date of the alleged child abuse or neglect; and (2) the classification of the case pursuant to section 28-720. Permitting, assisting, or encouraging the unauthorized release of any information contained in such reports or records shall be a Class V misdemeanor.

§ 28-727. Report; person making; receive summary of findings and actions; when.  

Upon request, a physician or the person in charge of an institution, school, facility, or agency making a legally mandated report of child abuse or neglect pursuant to section 28-711 shall receive a summary of the findings of and actions taken by the department in response to his or her report. The amount of detail such summary contains shall depend on the source of the report of child abuse or neglect and shall be established by regulations of the department.
§ 432B.020. “Abuse or neglect of a child” defined.

1. “Abuse or neglect of a child” means, except as otherwise provided in subsection 2:
   (a) Physical or mental injury of a nonaccidental nature;
   (b) Sexual abuse or sexual exploitation; or
   (c) Negligent treatment or maltreatment as set forth in NRS 432B.140, of a child caused or allowed by a person responsible for the welfare of the child under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

2. A child is not abused or neglected, nor is the health or welfare of the child harmed or threatened for the sole reason that:
   (a) The parent of the child delivers the child to a provider of emergency services pursuant to NRS 432B.630, if the parent complies with the requirements of paragraph (a) of subsection 3 of that section; or
   (b) The parent or guardian of the child, in good faith, selects and depends upon nonmedical remedial treatment for such child, if such treatment is recognized and permitted under the laws of this State in lieu of medical treatment. This paragraph does not limit the court in ensuring that a child receive a medical examination and treatment pursuant to NRS 62E.280.

3. As used in this section, “allow” means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that a child is abused or neglected.

§ 432B.121. Definition of when person has “reasonable cause to believe” and when person acts “as soon as reasonably practicable.”

For the purposes of this chapter, a person:

1. Has “reasonable cause to believe” if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.

2. Acts “as soon as reasonably practicable” if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would act within approximately the same period under those facts and circumstances.

§ 432B.160. Immunity from civil or criminal liability; presumption.

1. Except as otherwise provided in subsection 2, immunity from civil or criminal liability extends to every person who in good faith:
   (a) Makes a report pursuant to NRS 432B.220;
   (b) Conducts an interview or allows an interview to be taken pursuant to NRS 432B.270;
   (c) Allows or takes photographs or X-rays pursuant to NRS 432B.270;
   (d) Causes a medical test to be performed pursuant to NRS 432B.270;
   (e) Provides a record, or a copy thereof, of a medical test performed pursuant to NRS 432B.270 to an agency which provides child welfare services to the child, a law enforcement agency that participated in the investigation of the report made pursuant to NRS 432B.220 or the prosecuting attorney's
office;
(f) Holds a child pursuant to NRS 432B.400, takes possession of a child pursuant to NRS 432B.630 or places a child in protective custody pursuant to any provision of this chapter;
(g) Performs any act pursuant to subsection 2 of NRS 432B.630;
(h) Refers a case or recommends the filing of a petition pursuant to NRS 432B.380; or
(i) Participates in a judicial proceeding resulting from a referral or recommendation.

2. The provisions of subsection 1 do not confer any immunity from liability for the negligent performance of any act pursuant to paragraph (b) of subsection 2 of NRS 432B.630.

3. In any proceeding to impose liability against a person for:
   (a) Making a report pursuant to NRS 432B.220; or
   (b) Performing any act set forth in paragraphs (b) to (i), inclusive, of subsection 1,
       there is a presumption that the person acted in good faith.

§ 432B.200. Toll-free telephone number for reports of abuse or neglect.

The Division of Child and Family Services shall establish and maintain a center with a toll-free telephone number to receive reports of abuse or neglect of a child in this State 24 hours a day, 7 days a week. Any reports made to this center must be promptly transmitted to the agency which provides child welfare services in the community where the child is located.

§ 432B.220. Persons required to make report; when and to whom reports are required; any person may make report; report and written findings if reasonable cause to believe death of child caused by abuse or neglect; certain persons and entities required to inform reporters of duty to report.

1. Any person who is described in subsection 4 and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:
   (a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and
   (b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:
   (a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of the home for a portion of the day, the person shall make the report to a law enforcement agency.
   (b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.
3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:
   (a) A person providing services licensed or certified in this State pursuant to, without limitation, chapter 450B, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640B, 640C, 640D, 640E, 641, 641A, 641B or 641C of NRS.
   (b) Any personnel of a medical facility licensed pursuant to chapter 449 of NRS who are engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of such a medical facility upon notification of suspected abuse or neglect of a child by a member of the staff of the medical facility.
   (c) A coroner.
   (d) A member of the clergy, practitioner of Christian Science or religious healer, unless the person has acquired the knowledge of the abuse or neglect from the offender during a confession.
   (e) A person employed by a public school or private school and any person who serves as a volunteer at such a school.
   (f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.
   (g) Any person licensed pursuant to chapter 424 of NRS to conduct a foster home.
   (h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.
   (i) Except as otherwise provided in NRS 432B.225, an attorney.
   (j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.
   (k) Any person who is employed by or serves as a volunteer for a youth shelter. As used in this paragraph, "youth shelter" has the meaning ascribed to it in NRS 244.427.
   (l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency shall report the death to the appropriate medical examiner or coroner.
welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his or her written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

7. The agency, board, bureau, commission, department, division or political subdivision of the State responsible for the licensure, certification or endorsement of a person who is described in subsection 4 and who is required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State shall, at the time of initial licensure, certification or endorsement:
   (a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;
   (b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and
   (c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is licensed, certified or endorsed in this State.

8. The employer of a person who is described in subsection 4 and who is not required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State must, upon initial employment of the person:
   (a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;
   (b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and
   (c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is employed by the employer.

9. Before a person may serve as a volunteer at a public school or private school, the school must:
   (a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section and section 44 of this act;
   (b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section and section 44 of this act; and
   (c) Maintain a copy of the written acknowledgment or electronic record for as long as the person serves as a volunteer at the school.

10. As used in this section:
    (a) “Private school” has the meaning ascribed to it in NRS 394.103.
    (b) “Public school” has the meaning ascribed to it in NRS 385.007.

§ 432B.225. Attorney prohibited from reporting abuse or neglect of child in certain circumstances.

1. Notwithstanding the provisions of NRS 432B.220, an attorney shall not make a report of the abuse or neglect of a child if the attorney acquired knowledge of the abuse or neglect from a client during a privileged communication if the client:
   (a) Has been or may be accused of committing the abuse or neglect; or
   (b) Is the victim of the abuse or neglect, is in foster care and did not give consent to the attorney to report the abuse or neglect.
2. Nothing in this section shall be construed as relieving an attorney from:
(a) Except as otherwise provided in subsection 1, the duty to report the abuse or neglect of a child pursuant to NRS 432B.220; or
(b) Complying with any ethical duties of attorneys as set forth in the Nevada Rules of Professional Conduct, including, without limitation, any duty to take reasonably necessary actions to protect the client of the attorney if the client is not capable of making adequately considered decisions because of age, mental impairment or any other reason. Such actions may include, without limitation, consulting with other persons who may take actions to protect the client and, when appropriate, seeking the appointment of a guardian ad litem, conservator or guardian.

§ 432B.230.Method of making report; contents.

1. A person may make a report pursuant to NRS 432B.220 by telephone or, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, by any other means of oral, written or electronic communication that a reasonable person would believe, under those facts and circumstances, is a reliable and swift means of communicating information to the person who receives the report. If the report is made orally, the person who receives the report must reduce it to writing as soon as reasonably practicable.

2. The report must contain the following information, if obtainable:
(a) The name, address, age and sex of the child;
(b) The name and address of the child’s parents or other person responsible for the care of the child;
(c) The nature and extent of the abuse or neglect of the child, the effect of prenatal illegal substance abuse on the newborn infant or the nature of the withdrawal symptoms resulting from prenatal drug exposure of the newborn infant;
(d) Any evidence of previously known or suspected:
   (1) Abuse or neglect of the child or the child’s siblings; or
   (2) Effects of prenatal illegal substance abuse on or evidence of withdrawal symptoms resulting from prenatal drug exposure of the newborn infant;
(e) The name, address and relationship, if known, of the person who is alleged to have abused or neglected the child; and
(f) Any other information known to the person making the report that the agency which provides child welfare services considers necessary.

§ 432B.240. Penalty for failure to make report.

Any person who knowingly and willfully violates the provisions of NRS 432B.220 is guilty of:

1. For the first violation, a misdemeanor.

2. For each subsequent violation, a gross misdemeanor.

§ 432B.250. Persons required to report prohibited from invoking certain privileges.

Any person who is required to make a report pursuant to NRS 432B.220 may not invoke any of the privileges set forth in chapter 49 of NRS:
1. For failure to make a report pursuant to NRS 432B.220;
2. In cooperating with an agency which provides child welfare services or a guardian ad litem for a child; or
3. In any proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive.

§ 432B.255. Admissibility of evidence.


In any proceeding resulting from a report made or action taken pursuant to the provisions of NRS 432B.220, 432B.230 or 432B.340 or in any proceeding where such report or the contents thereof is sought to be introduced in evidence, such report or contents or any other fact or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter would otherwise be privileged against disclosure under chapter 49 of NRS.

§ 432B.260. Action upon receipt of report; agency which provides child welfare services required to inform person named in report of allegation of abuse or neglect if report is investigated.


1. Upon the receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall promptly notify the appropriate licensing authority, if any. A law enforcement agency shall promptly notify an agency which provides child welfare services of any report it receives.

2. Upon receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall immediately initiate an investigation if the report indicates that:
   (a) There is a high risk of serious harm to the child;
   (b) The child has suffered a fatality; or
   (c) The child is living in a household in which another child has died, or the child is seriously injured or has visible signs of physical abuse.

3. Except as otherwise provided in subsection 2, upon receipt of a report concerning the possible abuse or neglect of a child or notification from a law enforcement agency that the law enforcement agency has received such a report, an agency which provides child welfare services shall conduct an evaluation not later than 3 days after the report or notification was received to determine whether an investigation is warranted. For the purposes of this subsection, an investigation is not warranted if:
   (a) The child is not in imminent danger of harm;
   (b) The child is not vulnerable as the result of any untreated injury, illness or other physical, mental or emotional condition that threatens the immediate health or safety of the child;
   (c) The alleged abuse or neglect of the child or the alleged effect of prenatal illegal substance abuse on or the withdrawal symptoms resulting from any prenatal drug exposure of the newborn infant could be eliminated if the child and the family of the child are referred to or participate in social or health services offered in the community, or both; or
   (d) The agency determines that the:
      (1) Alleged abuse or neglect was the result of the reasonable exercise of discipline by a parent or guardian of the child involving the use of corporal punishment; and
      (2) Corporal punishment so administered was not so excessive as to constitute abuse or neglect as described in NRS 432B.150.

4. If the agency determines that an investigation is warranted, the agency shall initiate the investigation not later than 3 days after the evaluation is completed.
5. If an agency which provides child welfare services investigates a report of alleged abuse or neglect of a child pursuant to NRS 432B.010 to 432B.400, inclusive, the agency shall inform the person responsible for the child's welfare who is named in the report as allegedly causing the abuse or neglect of the child of any allegation which is made against the person at the initial time of contact with the person by the agency. The agency shall not identify the person responsible for reporting the alleged abuse or neglect.

6. Except as otherwise provided in this subsection, if the agency determines that an investigation is not warranted, the agency may, as appropriate:
   (a) Provide counseling, training or other services relating to child abuse and neglect to the family of the child, or refer the family to a person who has entered into an agreement with the agency to provide those services; or
   (b) Conduct an assessment of the family of the child to determine what services, if any, are needed by the family and, if appropriate, provide any such services or refer the family to a person who has entered into a written agreement with the agency to make such an assessment.

7. If an agency which provides child welfare services enters into an agreement with a person to provide services to a child or the family of the child pursuant to subsection 6, the agency shall require the person to notify the agency if the child or the family refuses or fails to participate in the services, or if the person determines that there is a serious risk to the health or safety of the child.

8. If an agency which provides child welfare services determines pursuant to subsection 3 that an investigation is not warranted, the agency may, at any time, reverse that determination and initiate an investigation.

9. An agency which provides child welfare services and a law enforcement agency shall cooperate in the investigation, if any, of a report of abuse or neglect of a child.

§ 432B.270. Interview of child and sibling of child concerning possible abuse or neglect; photographs, X-rays and medical tests.

1. A designee of an agency investigating a report of abuse or neglect of a child may, without the consent of and outside the presence of any person responsible for the child's welfare, interview a child and any sibling of the child, if an interview is deemed appropriate by the designee, concerning any possible abuse or neglect. The child and any sibling of the child may be interviewed, if an interview is deemed appropriate by the designee, at any place where the child or any sibling of the child is found. A designee who conducts an interview pursuant to this subsection must be trained adequately to interview children. The designee shall, immediately after the conclusion of the interview, if reasonably possible, notify a person responsible for the child's welfare that the child or sibling was interviewed, unless the designee determines that such notification would endanger the child or sibling.

2. A designee of an agency investigating a report of abuse or neglect of a child may, without the consent of the person responsible for a child's welfare:
   (a) Take or cause to be taken photographs of the child's body, including the areas of trauma; and
   (b) If indicated after consultation with a physician, cause X-rays or medical tests to be performed on a child.

3. Upon the taking of any photographs or X-rays or the performance of any medical tests pursuant to subsection 2, the person responsible for the child's welfare must be notified immediately, if reasonably possible, unless the designee determines that the
notification would endanger the child. The reasonable cost of these photographs, X-rays or medical tests must be paid by the agency which provides child welfare services if money is not otherwise available.

4. Any photographs or X-rays taken or records of any medical tests performed pursuant to subsection 2, or any medical records relating to the examination or treatment of a child pursuant to this section, or copies thereof, must be sent to the agency which provides child welfare services, the law enforcement agency participating in the investigation of the report and the prosecuting attorney's office. Each photograph, X-ray, result of a medical test or other medical record:
   (a) Must be accompanied by a statement or certificate signed by the custodian of medical records of the health care facility where the photograph or X-ray was taken or the treatment, examination or medical test was performed, indicating:
      (1) The name of the child;
      (2) The name and address of the person who took the photograph or X-ray, performed the medical test, or examined or treated the child; and
      (3) The date on which the photograph or X-ray was taken or the treatment, examination or medical test was performed;
   (b) Is admissible in any proceeding relating to the abuse or neglect of the child; and
   (c) May be given to the child's parent or guardian if the parent or guardian pays the cost of duplicating them.

5. As used in this section, “medical test” means any test performed by or caused to be performed by a provider of health care, including, without limitation, a computerized axial tomography scan and magnetic resonance imaging.

§ 432B.280. Confidentiality of information maintained by an agency which provides child welfare services; exceptions; penalty.  

1. Except as otherwise provided in NRS 239.0115, 432B.165, 432B.175 and 439.538 and except as otherwise authorized or required pursuant to NRS 432B.290, information maintained by an agency which provides child welfare services, including, without limitation, reports and investigations made pursuant to this chapter, is confidential.

2. Any person, law enforcement agency or public agency, institution or facility who willfully releases or disseminates such information, except:
   (a) Pursuant to a criminal prosecution relating to the abuse or neglect of a child;
   (b) As otherwise authorized pursuant to NRS 432B.165 and 432B.175;
   (c) As otherwise authorized or required pursuant to NRS 432B.290;
   (d) As otherwise authorized or required pursuant to NRS 439.538; or
   (e) As otherwise required pursuant to NRS 432B.513 is guilty of a gross misdemeanor.

§ 432B.290. Maintenance of information by agency which provides child welfare services; authorized release of such information; penalty; fee for release of information; rules; policies or regulations.  

1. Information maintained by an agency which provides child welfare services must be maintained by the agency which provides child welfare services as required by federal law as a condition of the allocation of federal money to this State.
2. Except as otherwise provided in this section and NRS 432B.165, 432B.175 and 432B.513, information maintained by an agency which provides child welfare services may, at the discretion of the agency which provides child welfare services, be made available only to:
   (a) A physician, if the physician has before him or her a child who the physician has reasonable cause to believe has been abused or neglected;
   (b) A person authorized to place a child in protective custody, if the person has before him or her a child who the person has reasonable cause to believe has been abused or neglected and the person requires the information to determine whether to place the child in protective custody;
   (c) An agency, including, without limitation, an agency in another jurisdiction, responsible for or authorized to undertake the care, treatment or supervision of:
      (1) The child; or
      (2) The person responsible for the welfare of the child;
   (d) A district attorney or other law enforcement officer who requires the information in connection with an investigation or prosecution of the abuse or neglect of a child;
   (e) Except as otherwise provided in paragraph (f), a court other than a juvenile court, for in camera inspection only, unless the court determines that public disclosure of the information is necessary for the determination of an issue before it;
   (f) A court as defined in NRS 159.015 to determine whether a guardian or successor guardian of a child should be appointed pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive;
   (g) A person engaged in bona fide research or an audit, but information identifying the subjects of a report must not be made available to the person;
   (h) The attorney and the guardian ad litem of the child, if the information is reasonably necessary to promote the safety, permanency and well-being of the child;
   (i) A person who files or intends to file a petition for the appointment of a guardian or successor guardian of a child pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child;
   (j) The proposed guardian or proposed successor guardian of a child over whom a guardianship is sought pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child;
   (k) A grand jury upon its determination that access to these records and the information is necessary in the conduct of its official business;
   (l) A federal, state or local governmental entity, or an agency of such an entity, or a juvenile court, that needs access to the information to carry out its legal responsibilities to protect children from abuse and neglect;
   (m) A person or an organization that has entered into a written agreement with an agency which provides child welfare services to provide assessments or services and that has been trained to make such assessments or provide such services;
   (n) A team organized pursuant to NRS 432B.350 for the protection of a child;
   (o) A team organized pursuant to NRS 432B.405 to review the death of a child;
   (p) A parent or legal guardian of the child and an attorney of a parent or guardian of the child, including, without limitation, the parent or guardian of a child over whom a guardianship is sought pursuant to chapter 159 of
NRS or NRS 432B.466 to 432B.468, inclusive, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning that parent or guardian;
(q) The child over whom a guardianship is sought pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if:
(1) The child is 14 years of age or older; and
(2) The identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child;
(r) The persons or agent of the persons who are the subject of a report, if the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning those persons;
(s) An agency that is authorized by law to license foster homes or facilities for children or to investigate persons applying for approval to adopt a child, if the agency has before it an application for that license or is investigating an applicant to adopt a child;
(t) Upon written consent of the parent, any officer of this State or a city or county thereof or Legislator authorized by the agency or department having jurisdiction or by the Legislature, acting within its jurisdiction, to investigate the activities or programs of an agency which provides child welfare services if:
(1) The identity of the person making the report is kept confidential; and
(2) The officer, Legislator or a member of the family of the officer or Legislator is not the person alleged to have committed the abuse or neglect;
(u) The Division of Parole and Probation of the Department of Public Safety for use pursuant to NRS 176.135 in making a presentence investigation and report to the district court or pursuant to NRS 176.151 in making a general investigation and report;
(v) Any person who is required pursuant to NRS 432B.220 to make a report to an agency which provides child welfare services or to a law enforcement agency;
(w) A local advisory board to expedite proceedings for the placement of children created pursuant to NRS 432B.604;
(x) The panel established pursuant to NRS 432B.396 to evaluate agencies which provide child welfare services;
(y) An employer in accordance with subsection 3 of NRS 432.100;
(z) A team organized or sponsored pursuant to NRS 217.475 or 228.495 to review the death of the victim of a crime that constitutes domestic violence; or
(aa) The Committee to Review Suicide Fatalities created by NRS 439.5104.

3. An agency investigating a report of the abuse or neglect of a child shall, upon request, provide to a person named in the report as allegedly causing the abuse or neglect of the child:
(a) A copy of:
(1) Any statement made in writing to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or
(2) Any recording made by the agency of any statement made orally to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or
(b) A written summary of the allegations made against the person who is
named in the report as allegedly causing the abuse or neglect of the child. The summary must not identify the person responsible for reporting the alleged abuse or neglect or any collateral sources and reporting parties.

4. Except as otherwise provided by subsection 6, before releasing any information maintained by an agency which provides child welfare services pursuant to this section, an agency which provides child welfare services shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of any person who reports child abuse or neglect and to protect any other person if the agency which provides child welfare services reasonably believes that disclosure of the information would cause a specific and material harm to an investigation of the alleged abuse or neglect of a child or the life or safety of any person.

5. The provisions of this section must not be construed to require an agency which provides child welfare services to disclose information maintained by the agency which provides child welfare services if, after consultation with the attorney who represents the agency, the agency determines that such disclosure would cause a specific and material harm to a criminal investigation.

6. A person who is the subject of an unsubstantiated report of child abuse or neglect made pursuant to this chapter and who believes that the report was made in bad faith or with malicious intent may petition a district court to order the agency which provides child welfare services to release information maintained by the agency which provides child welfare services. The petition must specifically set forth the reasons supporting the belief that the report was made in bad faith or with malicious intent. The petitioner shall provide notice to the agency which provides child welfare services so that the agency may participate in the action through its counsel. The district court shall review the information which the petitioner requests to be released and the petitioner shall be allowed to present evidence in support of the petition. If the court determines that there is a reasonable question of fact as to whether the report was made in bad faith or with malicious intent and that the disclosure of the identity of the person who made the report would not be likely to endanger the life or safety of the person who made the report, the court shall provide a copy of the information to the petitioner and the original information is subject to discovery in a subsequent civil action regarding the making of the report.

7. If an agency which provides child welfare services receives any information that is deemed confidential by law, the agency which provides child welfare services shall maintain the confidentiality of the information as prescribed by applicable law.

8. Pursuant to this section, a person may authorize the release of information maintained by an agency which provides child welfare services about himself or herself, but may not waive the confidentiality of such information concerning any other person.

9. An agency which provides child welfare services may provide a summary of the outcome of an investigation of the alleged abuse or neglect of a child to the person who reported the suspected abuse or neglect.

10. Except as otherwise provided in this subsection, any person who is provided with information maintained by an agency which provides child welfare services and who further disseminates the information or makes the information public is guilty of a gross misdemeanor. This subsection does not apply to:
   (a) A district attorney or other law enforcement officer who uses the information solely for the purpose of initiating legal proceedings;
   (b) An employee of the Division of Parole and Probation of the Department of Public Safety making a presentence investigation and report to the district court pursuant to NRS 176.135 or making a general investigation and report
pursuant to NRS 176.151; or
(c) An employee of a juvenile justice agency who provides the information to the juvenile court.

11. An agency which provides child welfare services may charge a fee for processing costs reasonably necessary to prepare information maintained by the agency which provides child welfare services for release pursuant to this section.

12. An agency which provides child welfare services shall adopt rules, policies or regulations to carry out the provisions of this section.

13. As used in this section, “juvenile justice agency” means the Youth Parole Bureau or a director of juvenile services.

§ 432B.310. Report to Central Registry of abuse or neglect required upon completion of investigation; report to Central Registry of prenatal illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure only required if child has been abused or neglected after child was born.


1. Except as otherwise provided in subsection 6 of NRS 432B.260, the agency investigating a report of abuse or neglect of a child shall, upon completing the investigation, report to the Central Registry:
   (a) Identifying and demographic information on the child alleged to be abused or neglected, the parents of the child, any other person responsible for the welfare of the child and the person allegedly responsible for the abuse or neglect;
   (b) The facts of the alleged abuse or neglect, including the date and type of alleged abuse or neglect, the manner in which the abuse was inflicted, the severity of the injuries and, if applicable, any information concerning the death of the child; and
   (c) The disposition of the case.

2. An agency which provides child welfare services shall not report to the Central Registry any information concerning a child identified as being affected by prenatal illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure unless the agency determines that a person has abused or neglected the child after the child was born.

§ 202.882. Duty to report violent or sexual offense against child 12 years of age or younger; penalty for failure to report; contents of report.


1. Except as otherwise provided in NRS 202.885 and 202.888, a person who knows or has reasonable cause to believe that another person has committed a violent or sexual offense against a child who is 12 years of age or younger shall:
   (a) Report the commission of the violent or sexual offense against the child to a law enforcement agency; and
   (b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the other person has committed the violent or sexual offense against the child.

2. A person who knowingly and willfully violates the provisions of subsection 1 is guilty of a misdemeanor.

3. A report made pursuant to this section must include, without limitation:
(a) If known, the name of the child and the name of the person who committed the violent or sexual offense against the child;  
(b) The location where the violent or sexual offense was committed; and  
(c) The facts and circumstances which support the person’s belief that the violent or sexual offense was committed.

§ 202.888. Persons exempt from duty to report.  

The provisions of NRS 202.882 do not apply to a person who:

1. Is less than 16 years of age;  
2. Is, by blood or marriage, the spouse, brother, sister, parent, grandparent, child or grandchild of:
   (a) The child who is the victim of the violent or sexual offense; or  
   (b) The person who committed the violent or sexual offense against the child;  
3. Suffers from a mental or physical impairment or disability that, in light of all the surrounding facts and circumstances, would make it impracticable for the person to report the commission of the violent or sexual offense against the child to a law enforcement agency;  
4. Knows or has reasonable cause to believe that reporting the violent or sexual offense against the child to a law enforcement agency would place the person or any other person who is related to him or her by blood or marriage or who resides in the same household as he or she resides, whether or not the other person is related to him or her by blood or marriage, in imminent danger of suffering substantial bodily harm;  
5. Became aware of the violent or sexual offense against the child through a communication or proceeding that is protected by a privilege set forth in chapter 49 of NRS; or  
6. Is acting in his or her professional or occupational capacity and is required to report the abuse or neglect of a child pursuant to NRS 432B.220.

§ 202.891. Immunity from civil or criminal liability; presumption that report was made in good faith.  

1. If a person who is required to make a report pursuant to NRS 202.882 makes such a report in good faith and in accordance with that section, the person is immune from civil or criminal liability for any act or omission related to that report, but the person is not immune from civil or criminal liability for any other act or omission committed by the person as part of, in connection with or as a principal, accessory or conspirator to the violent or sexual offense against the child, regardless of the nature of the other act or omission.

2. If a person is not required to make a report pursuant to NRS 202.882 and the person makes such a report to a law enforcement agency in good faith, the person is immune from civil or criminal liability for any act or omission related to that report, but the person is not immune from civil or criminal liability for any other act or omission committed by the person as part of, in connection with or as a principal, accessory or conspirator to the violent or sexual offense against the child, regardless of the nature of the other act or omission.
3. For the purposes of this section, if a person reports to a law enforcement agency that another person has committed a violent or sexual offense against a child, whether or not the person is required to make such a report pursuant to NRS 202.882, the person is presumed to have made the report in good faith unless the person is being prosecuted for a criminal violation, including, without limitation, a violation of the provisions of NRS 207.280.


If a person reports to a law enforcement agency that another person has committed a violent or sexual offense against a child, whether or not the person is required to make such a report pursuant to NRS 202.882, and the violent or sexual offense against the child would constitute abuse or neglect of a child, as defined in NRS 432B.020, the report made by the person shall be deemed to be a report of the abuse or neglect of the child that has been made pursuant to NRS 432B.220 and:

1. The appropriate agencies shall act upon the report pursuant to chapter 432B of NRS; and

2. The report may be used in the same manner as other reports that are made pursuant to NRS 432B.220.
N.H. Rev. Stat. § 169-C:12

In any hearing under this chapter, the court shall not be bound by the technical rules of evidence and may admit evidence which it considers relevant and material. Evidence of prior founded or unfounded reports of abuse or neglect shall be admissible in proceedings under this chapter in order to establish a relevant pattern or course of conduct.

N.H. Rev. Stat. § 169-C:29

Any physician, surgeon, county medical examiner, psychiatrist, resident, intern, dentist, osteopath, optometrist, chiropractor, psychologist, therapist, registered nurse, hospital personnel (engaged in admission, examination, care and treatment of persons), Christian Science practitioner, teacher, school official, school nurse, school counselor, social worker, day care worker, any other child or foster care worker, law enforcement official, priest, minister, or rabbi or any other person having reason to suspect that a child has been abused or neglected shall report the same in accordance with this chapter.

N.H. Rev. Stat. § 169-C:30

An oral report shall be made immediately by telephone or otherwise, and followed within 48 hours by a report in writing, if so requested, to the department. Such report shall, if known, contain the name and address of the child suspected of being neglected or abused and the person responsible for the child's welfare, the specific information indicating neglect or the nature and extent of the child's injuries (including any evidence of previous injuries), the identity of the person or persons suspected of being responsible for such neglect or abuse, and any other information that might be helpful in establishing neglect or abuse or that may be required by the department.

N.H. Rev. Stat. § 169-C:31

Anyone participating in good faith in the making of a report pursuant to this chapter is immune from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant has the same immunity with respect to participation in any investigation by the department or judicial proceeding resulting from such report.

N.H. Rev. Stat. § 169-C:32

The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client, shall not apply to proceedings instituted pursuant to this chapter and shall not constitute grounds for failure to report as required by this chapter.

N.H. Rev. Stat. § 169-C:33

I. Any medical person or the department preparing or investigating a report under this chapter, may take, or cause to be taken, photographs of the areas of trauma visible on a child who is the subject of a report and, if medically indicated, cause to be performed a radiological examination of the child without the consent of the child's
parents or guardians. All photographs and X-rays taken, or copies of them, shall be sent to the appropriate offices of the department as soon as possible.

II. The reasonable cost of photographs or X-rays taken under this section shall be reimbursed by the department.

§ 169-C:37. Institutional Abuse and Neglect
N.H. Rev. Stat. § 169-C:37

The department of justice shall be empowered to receive and investigate reports of institutional abuse or neglect at the youth development center, Laconia developmental services, and New Hampshire hospital; and the department shall be empowered to receive and investigate reports of all other suspected instances of institutional abuse or neglect. Either the department of justice or the commissioner of the department or both may adopt rules consistent with this authority to investigate such reports and take appropriate action for the protection of children.

N.H. Rev. Stat. § 169-C:39

Anyone who knowingly violates any provision of this subdivision shall be guilty of a misdemeanor.

§ 170-G:8-a. Record Content; Confidentiality; Rulemaking.
N.H. Rev. Stat. § 170-G:8-a

I. The case records of the department consist of all official records, regardless of the media upon which they are retained, created by the department of health and human services in connection with a report received pursuant to RSA 169-C:29, or cases brought under RSA 169-B, 169-C, 169-D, or 463, or services provided to the child or family without a court order pursuant to RSA 170-G:4, including intake and assessment reports, service or case plans, case logs, termination reports and a list of persons or entities providing reports to the department or services to the child or family. Such records do not include:

(a) Records created as part of an action brought pursuant to RSA 170-B or 170-C.
(b) Records submitted to or maintained by the courts, or records created by third parties, such as psychologists, physicians, and police officers, even if such records are prepared or furnished at the request of the department. Requests for access to court records and records created by third parties may be made directly to the court or to the third party who created the record. Nothing in this section shall restrict or limit access to records filed pursuant to RSA 169-C:12-b.
(c) Reports contained in the central registry of abuse and neglect reports maintained pursuant to RSA 169-C:35.
(d) The name of a person who makes a report of suspected abuse or neglect of a child pursuant to RSA 169-C:29, or any information which would identify the reporter.

II. The case records of the department shall be confidential.

(a) The department shall provide access to the case records to the following persons unless the commissioner or designee determines that the harm to the child named in the case record resulting from the disclosure outweighs the need for the disclosure presented by the person requesting access:

(1) The child named in the case record.
(2) The parent of the child named in the case record, as defined in RSA 169-C:3, XXI.
(3) The guardian or custodian of the child named in the case record.
(4) Another member of the family of the child named in the case record, if disclosure is necessary for the provision of services to the child or other family member.
(5) Employees of the department and legal counsel representing employees of the department for the purpose of carrying out their official functions.
(6) Persons made parties to judicial proceedings in New Hampshire relative to the child or family, whether civil or criminal, including the court with jurisdiction over the proceeding, any attorney for any party, and any guardian ad litem appointed in the proceeding.
(7) A grand jury, upon its determination that access to such records is necessary in the conduct of its official business.
(8) The relevant county.
(9) Another state's child welfare agency or other government entity, or any law enforcement agency, including local and out-of-state law enforcement agencies, that requires the information in order to carry out its responsibility under law to protect children from abuse or neglect, including the investigation of child fatalities. For the purposes of this subparagraph, the term “law enforcement agency” shall include the attorney general, a county attorney, a county sheriff, the state police, and any local police department.

(b) The department shall disclose information from case records or provide access to case records to the following persons or entities, if such information or access is not harmful to the child and is necessary in order to enable the person or entity requesting information or access to evaluate or provide services, treatment or supervision to the child named in the case record or to the family:

(1) A person or entity requested by the department or ordered by the court to perform an evaluation or assessment on or to create a service plan for the child named in the case record, the child's family, or an individual member of the child's family.
(2) A person or entity requested by the department or ordered by the court to provide services to the child named in the case record or the child's family.
(3) The superintendent of schools for the school district in which the child named in the case record is then, or will, according to the child's case plan, be attending school.
(4) The person or entity with whom the child resides, if that person is not the child's parent, guardian, or custodian.

III. The commissioner shall adopt rules, pursuant to RSA 541-A, governing the procedures regulating access to all of the records of the department. Such rules shall contain provisions relative to:

(a) Access to case records by persons named in paragraph II of this section.
(b) Access to case records by a physician who has examined a child who the physician reasonably suspects may be abused or neglected.
(c) [Repealed by 2016 amendment.]
(d) Access to case records by a state official who is responsible for the provision of services to children and families, or a legislative official who has been statutorily granted specific responsibility for oversight of enabling or appropriating legislation related to the provision of services to children and families, for the purposes of carrying out their official functions, provided that no information identifying the subject of the record shall be disclosed unless such information is essential to the performance of the official function, and each person identified in the record or the person's authorized representative has authorized such disclosure in writing.
(e) Access to case records by a person conducting a bona fide research or
evaluation project, provided that no information identifying the subject of the record shall be disclosed unless such information is essential to the purpose of the research, each person identified in the record or an authorized representative has authorized such disclosure in writing, and the department has granted its approval in writing.

(f) Access to case records by any person making a report of suspected child abuse or neglect pursuant to RSA 169-C:29, provided that such disclosure is limited to information about the status of the report under investigation, or information reasonably required to protect the safety of such person.

(g) Access to all other records of the department which are not case records as defined in paragraph II.

IV. Additional access to case records and all other records of the department shall be granted pursuant to the terms of a final order issued by a court of competent jurisdiction.

V. It shall be unlawful for any person entrusted with information from case records to disclose such records or information contained in them. Notwithstanding the previous sentence, it shall not be unlawful for a parent or child to disclose case records or the information contained in them to persons providing counsel to the child or family. It shall be unlawful for any person who receives case records or the information contained in them from a parent or a child to disclose such records or information. Any person who knowingly discloses case records or information contained in them in violation of this paragraph shall be guilty of a misdemeanor.

VI. Notwithstanding the foregoing:

(a) Any person who is entitled to access a case record pursuant to this section may share such information with any other person entitled to access pursuant to this section, unless the commissioner or a designee shall specifically prohibit such additional disclosure in order to prevent harm to a child.

(b) Nothing in this section shall be construed to require access to any records in violation of the order of a court of competent jurisdiction.

Any person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse shall report the same immediately to the Division of Child Protection and Permanency by telephone or otherwise. Such reports, where possible, shall contain the names and addresses of the child and his parent, guardian, or other person having custody and control of the child and, if known, the child's age, the nature and possible extent of the child's injuries, abuse or maltreatment, including any evidence of previous injuries, abuse or maltreatment, and any other information that the person believes may be helpful with respect to the child abuse and the identity of the perpetrator.

§ 9:8.10a. Records of child abuse reports; confidentiality; disclosure.

1. a. All records of child abuse reports made pursuant to section 3 of P.L.1971, c. 437 (C.9:6-8.10), all information obtained by the Department of Children and Families in investigating such reports including reports received pursuant to section 20 of P.L.1974, c. 119 (C.9:6-8.40), and all reports of findings forwarded to the child abuse registry pursuant to section 4 of P.L.1971, c. 437 (C.9:6-8.11) shall be kept confidential and may be disclosed only under the circumstances expressly authorized under subsections b., c., d., e., f., and g. herein. The department shall disclose information only as authorized under subsections b., c., d., e., f., and g. of this section that is relevant to the purpose for which the information is required, provided, however, that nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a department investigation or a civil or criminal investigation or judicial proceeding. If the department denies access to specific information on this basis, the requesting entity may seek disclosure through the Chancery Division of the Superior Court. This section shall not be construed to prohibit disclosure pursuant to paragraphs (2) and (7) of subsection b. of this section. Nothing in P.L.1977, c. 102 (C.9:6-8.10a et seq.) shall be construed to permit the disclosure of any information deemed confidential by federal or State law.
b. The department may and upon written request, shall release the records and reports referred to in subsection a., or parts thereof, consistent with the provisions of P.L.1997, c. 175 (C.9:6-8.83 et al.) to:

(1) A public or private child protective agency authorized to investigate a report of child abuse or neglect;
(2) A police or other law enforcement agency investigating a report of child abuse or neglect;
(3) A physician who has before him a child whom he reasonably suspects may be abused or neglected or an authorized member of the staff of a duly designated regional child abuse diagnostic and treatment center which is involved with a particular child who is the subject of the request;
(4) A physician, a hospital director or his designate, a police officer, or other person authorized to place a child in protective custody when such person has before him a child whom he reasonably suspects may be abused or neglected and requires the information in order to determine whether to place the child in protective custody;
(5) An agency, whether public or private, including any division or unit in the Department of Human Services or the Department of Children and Families, authorized to care for, treat, assess,
evaluate, or supervise a child who is the subject of a child abuse report, or a parent, guardian, resource family parent, or other person who is responsible for the child’s welfare, or both, when the information is needed in connection with the provision of care, treatment, assessment, evaluation, or supervision to such child or such parent, guardian, resource family parent, or other person and the provision of information is in the best interests of the child as determined by the Division of Child Protection and Permanency;
(6) A court or the Office of Administrative Law, upon its finding that access to such records may be necessary for determination of an issue before it, and such records may be disclosed by the court or the Office of Administrative Law in whole or in part to the law guardian, attorney, or other appropriate person upon a finding that such further disclosure is necessary for determination of an issue before the court or the Office of Administrative Law;
(7) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;
(8) Any appropriate State legislative committee acting in the course of its official functions, provided, however, that no names or other information identifying persons named in the report shall be made available to the legislative committee unless it is absolutely essential to the legislative purpose;
(9) (Deleted by amendment, P.L.1997, c. 175).
(10) A family day care sponsoring organization for the purpose of providing information on child abuse or neglect allegations involving prospective or current providers or household members pursuant to P.L.1993, c. 350 (C.30:5B-25.1 et seq.) and as necessary, for use in administrative appeals related to information obtained through a child abuse registry search;
(11) The Victims of Crime Compensation Board, for the purpose of providing services available pursuant to the “Criminal Injuries Compensation Act of 1971,” P.L.1971, c. 317 (C.52:4B-1 et seq.) to a child victim who is the subject of such report;
(12) Any person appealing a department service or status action or a substantiated finding of child abuse or neglect and his attorney or authorized lay representative upon a determination by the department or the presiding Administrative Law Judge that such disclosure is necessary for a determination of the issue on appeal;
(13) Any person or entity mandated by statute to consider child abuse or neglect information when conducting a background check or employment-related screening of an individual employed by or seeking employment with an agency or organization providing services to children;
(14) Any person or entity conducting a disciplinary, administrative, or judicial proceeding to determine terms of employment or continued employment of an officer, employee, or volunteer with an agency or organization providing services for children. The information may be disclosed in whole or in part to the appellant or other appropriate person only upon a determination by the person or entity conducting the proceeding that the disclosure is necessary to make a determination;
(15) The members of a county multi-disciplinary team, established in accordance with State guidelines, for the purpose of coordinating the activities of agencies handling alleged cases of child abuse and neglect;
(16) A person being evaluated by the department or the court as a potential care-giver to determine whether that person is willing and able to provide the care and support required by the child;
(17) The legal counsel of a child, parent, or guardian, whether court-appointed or retained, when information is needed to discuss the case with the department in order to make decisions relating to or concerning the child;
(18) A person who has filed a report of suspected child abuse or neglect for the purpose of providing that person with only the disposition of the investigation;
(19) A parent, resource family parent, or legal guardian when the information is needed in a department matter in which that parent, resource family parent, or legal guardian is directly involved. The information may be released only to the extent necessary for the requesting parent, resource family parent, or legal guardian to discuss services or the basis for the department’s involvement or to develop, discuss, or implement a case plan for the child;
(20) A federal, State, or local government entity, to the extent necessary for such entity to carry out its responsibilities under law to protect children from abuse and neglect;
(22) The Child Fatality and Near Fatality Review Board established pursuant to P.L.1997, c. 175 (C.9:6-8.83 et al.); or
(23) Members of a family team or other case planning group formed by the Division of Child Protection and Permanency and established in accordance with regulations adopted by the Commissioner of Children and Families for the purpose of addressing the child’s safety, permanency, or well-being, when the provision of such information is in the best interests of the child as determined by the Division of Child Protection and Permanency.

Any individual, agency, board, court, grand jury, legislative committee, or other entity which receives from the department the records and reports referred to in subsection a., shall keep the records and reports, or parts thereof, confidential and shall not disclose the records and reports or parts thereof except as authorized by law.

c. The department may share information with a child who is the subject of a child abuse or neglect report, as appropriate to the child's age or condition, to enable the child to understand the basis for the department's involvement and to participate in the development, discussion, or implementation of a case plan for the child.

d. The department may release the records and reports referred to in subsection a. of this section to any person engaged in a bona fide research purpose, provided, however, that no names or other information identifying persons named in the report shall be made available to the researcher unless it is absolutely essential to the research purpose and provided further that the approval of the Commissioner of Children and Families or his designee shall first have been obtained.

e. For incidents determined by the department to be substantiated, the department shall forward to the police or law enforcement agency in whose jurisdiction the child named in the report resides, the identity of persons alleged to have committed child abuse or neglect and of victims of child abuse or neglect, their addresses, the nature of the allegations, and other relevant information, including, but not limited to, prior reports of abuse or neglect and names of siblings obtained by the department during its investigation of a report of child abuse or neglect. The police or law enforcement agency shall keep such information confidential.

f. The department may disclose to the public the findings or information
about a case of child abuse or neglect which has resulted in a child fatality or near fatality. Nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a department investigation or a civil or criminal investigation or judicial proceeding. If the department denies access to specific information on this basis, the requesting entity may seek disclosure of the information through the Chancery Division of the Superior Court. No information may be disclosed which is deemed confidential by federal or State law. The name or any other information identifying the person or entity who referred the child to the department shall not be released to the public.

g. The department shall release the records and reports referred to in subsection a. of this section to a unified child care agency contracted with the department pursuant to N.J.A.C.10:15-2.1 for the purpose of providing information on child abuse or neglect allegations involving a prospective approved home provider or any adult household member pursuant to section 2 of P.L.2003, c. 185 (C.30:5B-32) to a child's parent when the information is necessary for the parent to make a decision concerning the placement of the child in an appropriate child care arrangement. The department shall not release any information that would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person.

§ 9:6-8.10b. Permitting or encouraging release of record or report; penalty.

Any person who willfully permits or encourages the release of the contents of any record or report in contravention of this act shall be guilty of a misdemeanor and subject to a fine of not more than $1,000.00, or to imprisonment for not more than 3 years, or both.


The Division of Child Protection and Permanency shall maintain, at all times, an emergency telephone service for the receipt of calls involving a report, complaint, or allegation of child abuse or neglect.


Anyone acting pursuant to this act in the making of a report under this act shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such person shall have the same immunity with respect to testimony given in any judicial proceeding resulting from such report.

A person who reports or causes to report in good faith an allegation of child abuse or neglect pursuant to section 3 of P.L.1971, c. 437 (C. 9:6-8.10) and as a result thereof is discharged from employment or in any manner discriminated against with respect to compensation, hire, tenure or terms, conditions or privileges of employment, may file a cause of action for appropriate relief in the family part of the Chancery Division of the Superior Court in the county in which the discharge or alleged discrimination occurred or in the county of the person's primary residence.

If the court finds that the person was discharged or discriminated against as a result
of the person’s reporting an allegation of child abuse or neglect, the court may grant reinstatement of employment with back pay or other legal or equitable relief.


Any person knowingly violating the provisions of this act including the failure to report an act of child abuse having reasonable cause to believe that an act of child abuse has been committed, is a disorderly person.
§ 32A-4-3. Duty to report child abuse and child neglect; responsibility to investigate child abuse or neglect; penalty.
N. M. Stat. Ann. § 32A-4-3

A. Every person, including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; a schoolteacher; a school official; a social worker acting in an official capacity; or a member of the clergy who has information that is not privileged as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report the matter immediately to:

   (1) a local law enforcement agency;
   (2) the department; or
   (3) a tribal law enforcement or social services agency for any Indian child residing in Indian country.

B. A law enforcement agency receiving the report shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to the department and shall transmit the same information in writing within forty-eight hours. The department shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to a local law enforcement agency and shall transmit the same information in writing within forty-eight hours. The written report shall contain the names and addresses of the child and the child's parents, guardian or custodian, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person responsible for the injuries. The written report shall be submitted upon a standardized form agreed to by the law enforcement agency and the department.

C. The recipient of a report under Subsection A of this section shall take immediate steps to ensure prompt investigation of the report. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect. A local law enforcement officer trained in the investigation of child abuse and neglect is responsible for investigating reports of alleged child abuse or neglect at schools, daycare facilities or child care facilities.

D. If the child alleged to be abused or neglected is in the care or control of or in a facility administratively connected to the department, the report shall be investigated by a local law enforcement officer trained in the investigation of child abuse and neglect. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect.

E. A law enforcement agency or the department shall have access to any of the records pertaining to a child abuse or neglect case maintained by any of the persons enumerated in Subsection A of this section, except as otherwise provided in the Abuse and Neglect Act.

F. A person who violates the provisions of Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.
A. Reports alleging neglect or abuse shall be referred to the department, which shall conduct an investigation to determine the best interests of the child with regard to any action to be taken. The name and information regarding the person making the report shall not be disclosed absent the consent of the informant or a court order.

B. During the investigation of a report alleging neglect or abuse, the matter may be referred to another appropriate agency and conferences may be conducted for the purpose of effecting adjustments or agreements that will obviate the necessity for filing a petition. A representative of the department shall, at the initial time of contact with the party subject to the investigation, advise the party of the reports or allegations made, in a manner that is consistent with laws protecting the rights of the informant. The parties shall be advised of their basic rights and no party may be compelled to appear at any conference, to produce any papers or to visit any place. The investigation shall be completed within a reasonable period of time from the date the report was made.

C. After completion of the investigation on a neglect or abuse report, the department shall either recommend or refuse to recommend the filing of a petition.

D. When a child is taken into custody, the department shall file a petition within two days. If a petition is not filed in a timely manner, the child shall be released to the child's parent, guardian or custodian.

§ 32A-4-5. Admissibility of report in evidence; immunity of reporting person; investigation of report.


A. In any proceeding alleging neglect or abuse under the Children's Code resulting from a report required by Section 32A-4-3 NMSA 1978 or in any proceeding in which that report or any of its contents are sought to be introduced in evidence, the report or its contents or any other facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege or similar privilege or rule against disclosure.

B. Anyone reporting an instance of alleged child neglect or abuse or participating in a judicial proceeding brought as a result of a report required by Section 32A-4-3 NMSA 1978 is presumed to be acting in good faith and shall be immune from liability, civil or criminal, that might otherwise be incurred or imposed by the law, unless the person acted in bad faith or with malicious purpose.

C. After properly verifying the identity of the public official, any school personnel or other person who has the duty to report child abuse pursuant to Section 32A-4-3 NMSA 1978 shall permit a member of a law enforcement agency, including tribal police officers, an employee of the district attorney's office, an investigative interviewer for a program described in Subsection E of this section or an employee of the department, to interview a child with respect to a report without the permission of the child's parent or guardian. Any person permitting an interview pursuant to this subsection is presumed to be acting in good faith and shall be immune from liability, civil or criminal, that might otherwise be incurred or imposed by law, unless the person acted in bad faith or with malicious purpose.

D. An investigation may be conducted by law enforcement, the district attorney's office, a program described in Subsection E of this section and the department. Interviews shall be conducted in a manner and place that protects the child and family from unnecessary trauma and embarrassment. The investigating entity shall conduct the investigation in a manner that will protect the privacy of the child and the family, with the paramount consideration being the safety of the child. All
interactions with child victims and child witnesses shall be conducted in a child-sensitive manner, taking into consideration the special needs of the child and the child's abilities, age and intellectual maturity. The interviews shall be conducted in a place where the child feels secure and in a language that the child uses and understands.

E. If a community has a program for child abuse investigation that includes an investigation interview of the alleged victim or child witness, the investigation may be conducted at a site designated by the community program. The child abuse victim or child witness shall, when possible, be interviewed in an environment where the alleged abuse perpetrator will not be present.

F. Prior to interviewing a child, the department shall notify the parent or guardian of the child who is being interviewed, unless the department determines that notification would adversely affect the safety of the child about whom the report has been made or compromise the investigation.

§ 32A-4-6. Taking into custody; penalty.
N.M. Stat. Ann. § 32A-4-6

A. A child may be held or taken into custody:
(1) by a law enforcement officer when the officer has evidence giving rise to reasonable grounds to believe that the child is abused or neglected and that there is an immediate threat to the child's safety; provided that the law enforcement officer contacts the department to enable the department to conduct an on-site safety assessment to determine whether it is appropriate to take the child into immediate custody, except that a child may be taken into custody by a law enforcement officer without a protective services assessment being conducted if:
   (a) the child's parent, guardian or custodian has attempted, conspired to cause or caused great bodily harm to the child or great bodily harm or death to the child's sibling;
   (b) the child's parent, guardian or custodian has attempted, conspired to cause or caused great bodily harm or death to another parent, guardian or custodian of the child;
   (c) the child has been abandoned;
   (d) the child is in need of emergency medical care;
   (e) the department is not available to conduct a safety assessment in a timely manner; or
   (f) the child is in imminent risk of abuse; or
(2) by medical personnel when there are reasonable grounds to believe that the child has been injured as a result of abuse or neglect and that the child may be at risk of further injury if returned to the child's parent, guardian or custodian. The medical personnel shall hold the child until a law enforcement officer is available to take custody of the child pursuant to Paragraph (1) of this subsection.

B. A child shall not be taken into protective custody solely on the grounds that the child's parent, guardian or custodian refuses to consent to the administration of a psychotropic medication to the child.

C. When a child is taken into custody by law enforcement, the department is not compelled to place the child in an out-of-home placement and may release the child to the child's parent, guardian or custodian.

D. When a child is taken into custody, the department shall make reasonable efforts to determine whether the child is an Indian child.
E. If a child taken into custody is an Indian child and is alleged to be neglected or abused, the department shall give notice to the agent of the Indian child's tribe in accordance with the federal Indian Child Welfare Act of 1978.

F. Any person who intentionally interferes with protection of a child, as provided by Subsection A of this section, is guilty of a petty misdemeanor.

§ 32A-4-33. Confidentiality; records, penalty.
N.M. Stat. Ann. § 32A-4-33

A. All records or information concerning a party to a neglect or abuse proceeding, including social records, diagnostic evaluations, psychiatric or psychological reports, videotapes, transcripts and audio recordings of a child's statement of abuse or medical reports incident to or obtained as a result of a neglect or abuse proceeding or that were produced or obtained during an investigation in anticipation of or incident to a neglect or abuse proceeding shall be confidential and closed to the public.

B. The records described in Subsection A of this section shall be disclosed only to the parties and:

(1) court personnel and persons or entities authorized by contract with the court to review, inspect or otherwise have access to records or information in the court's possession;
(2) court-appointed special advocates appointed to the neglect or abuse proceeding;
(3) the child's guardian ad litem;
(4) the attorney representing the child in an abuse or neglect action, a delinquency action or any other action under the Children's Code;
(5) department personnel and persons or entities authorized by contract with the department to review, inspect or otherwise have access to records or information in the department's possession;
(6) any local substitute care review board or any agency contracted to implement local substitute care review boards;
(7) law enforcement officials, except when use immunity is granted pursuant to Section 32A-4-11 NMSA 1978;
(8) district attorneys, except when use immunity is granted pursuant to Section 32A-4-11 NMSA 1978;
(9) any state government social services agency in any state or when, in the opinion of the department it is in the best interest of the child, a governmental social services agency of another country;
(10) those persons or entities of an Indian tribe specifically authorized to inspect the records pursuant to the federal Indian Child Welfare Act of 1978 or any regulations promulgated thereunder;
(11) a foster parent, if the records are those of a child currently placed with that foster parent or of a child being considered for placement with that foster parent and the records concern the social, medical, psychological or educational needs of the child;
(12) school personnel involved with the child if the records concern the child's social or educational needs;
(13) a grandparent, parent of a sibling, relative or fictive kin, if the records or information pertain to a child being considered for placement with that grandparent, parent of a sibling, relative or fictive kin and the records or information concern the social, medical, psychological or educational needs of the child;
(14) health care or mental health professionals involved in the evaluation or treatment of the child or of the child's parents, guardian, custodian or other family members;
(15) protection and advocacy representatives pursuant to the federal
Developmental Disabilities Assistance and Bill of Rights Act and the federal Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991;

(16) children's safehouse organizations conducting investigatory interviews of children on behalf of a law enforcement agency or the department;

(17) representatives of the federal government or their contractors authorized by federal statute or regulation to review, inspect, audit or otherwise have access to records and information pertaining to neglect or abuse proceedings;

(18) any person or entity attending a meeting arranged by the department to discuss the safety, well-being and permanency of a child, when the parent or child, or parent or legal custodian on behalf of a child younger than fourteen years of age, has consented to the disclosure; and

(19) any other person or entity, by order of the court, having a legitimate interest in the case or the work of the court.

C. A parent, guardian or legal custodian whose child has been the subject of an investigation of abuse or neglect where no petition has been filed shall have the right to inspect any medical report, psychological evaluation, law enforcement reports or other investigative or diagnostic evaluation; provided that any identifying information related to the reporting party or any other party providing information shall be deleted. The parent, guardian or legal custodian shall also have the right to the results of the investigation and the right to petition the court for full access to all department records and information except those records and information the department finds would be likely to endanger the life or safety of any person providing information to the department.

D. Whoever intentionally and unlawfully releases any information or records closed to the public pursuant to the Abuse and Neglect Act or releases or makes other unlawful use of records in violation of that act is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

E. The department shall promulgate rules for implementing disclosure of records pursuant to this section and in compliance with state and federal law and the Children's Court Rules.

§ 30-6-4. Obstruction of reporting or investigation of child abuse or neglect.
N.M. Stat. Ann. § 60-6-4

Obstruction of reporting or investigation of child abuse or neglect consists of:

A. knowingly inhibiting, preventing, obstructing or intimidating another from reporting, pursuant to Section 32A-4-3 NMSA 1978, child abuse or neglect, including child sexual abuse; or

B. knowingly obstructing, delaying, interfering with or denying access to a law enforcement officer or child protective services social worker in the investigation of a report of child abuse or sexual abuse.

Whoever commits obstruction of reporting or investigation of child abuse or neglect is guilty of a misdemeanor.
Social Services Law § 6-6-413. Persons and officials required to report cases of suspected child abuse or maltreatment.

N.Y. Soc. Serv. Law § 6-6-413

1. (a) The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child:

- any physician; registered physician assistant; surgeon; medical examiner; coroner; dentist; dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident; intern; psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; licensed behavior analyst; certified behavior analyst assistant; hospital personnel engaged in the admission, examination, care or treatment of persons; a Christian Science practitioner; school official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate; social services worker; director of a children's overnight camp, summer day camp or traveling summer day camp, as such camps are defined in section thirteen hundred ninety-two of the public health law; day care center worker; school-age child care worker; provider of family or group family day care; or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; all persons credentialed by the office of alcoholism and substance abuse services; peace officer; police officer; district attorney or assistant district attorney; investigator employed in the office of a district attorney; or other law enforcement official.

(b) Whenever such person is required to report under this title in his or her capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, he or she shall make the report as required by this title and immediately notify the person in charge of such institution, school, facility or agency, or his or her designated agent. Such person in charge, or the designated agent of such person, shall be responsible for all subsequent administration necessitated by the report. Any report shall include the name, title and contact information for every staff person of the institution who is believed to have direct knowledge of the allegations in the report. Nothing in this section or title is intended to require more than one report from any such institution, school or agency.

(c) A medical or other public or private institution, school, facility or agency shall not take any retaliatory personnel action, as such term is defined in paragraph (e) of subdivision one of section seven hundred forty of the labor law, against an employee because such employee believes that he or she has reasonable cause to suspect that a child is an abused or maltreated child and that employee therefore makes a report in accordance with this title. No school, school official, child care provider, foster care provider, residential care facility provider, hospital, medical institution provider or mental health facility provider shall impose any conditions, including prior approval or prior notification, upon a member of their staff specifically required to report under this title. At the time of the making of a report, or at any time thereafter, such person or official may exercise the right...
to request, pursuant to paragraph (A) of subdivision four of section four hundred twenty-two of this title, the findings of an investigation made pursuant to this title.

(d) Social services workers are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child is an abused or maltreated child where a person comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child.

2. Any person, institution, school, facility, agency, organization, partnership or corporation which employs persons mandated to report suspected incidents of child abuse or maltreatment pursuant to subdivision one of this section shall provide consistent with section four hundred twenty-one of this chapter, all such current and new employees with written information explaining the reporting requirements set out in subdivision one of this section and in sections four hundred fifteen through four hundred twenty of this title. The employers shall be responsible for the costs associated with printing and distributing the written information.

3. Any state or local governmental agency or authorized agency which issues a license, certificate or permit to an individual to operate a family day care home or group family day care home shall provide each person currently holding or seeking such a license, certificate or permit with written information explaining the reporting requirements set out in subdivision one of this section and in sections four hundred fifteen through four hundred twenty of this title.

4. Any person, institution, school, facility, agency, organization, partnership or corporation, which employs persons who are mandated to report suspected incidents of child abuse or maltreatment pursuant to subdivision one of this section and whose employees, in the normal course of their employment, travel to locations where children reside, shall provide, consistent with section four hundred twenty-one of this title, all such current and new employees with information on recognizing the signs of an unlawful methamphetamine laboratory. Pursuant to section 19.27 of the mental hygiene law, the office of alcoholism and substance abuse services shall make available to such employers information on recognizing the signs of unlawful methamphetamine laboratories.

Social Services Law § 6-6-414. Any person permitted to report.
N.Y. Soc. Serv. Law § 6-6-414

In addition to those persons and officials required to report suspected child abuse or maltreatment, any person may make such a report if such person has reasonable cause to suspect that a child is an abused or maltreated child.

Social Services Law § 6-6-415. Reporting procedure.
N.Y. Soc. Serv. Law § 6-6-415

Reports of suspected child abuse or maltreatment made pursuant to this title shall be made immediately by telephone or by telephone facsimile machine on a form supplied by the commissioner of the office of children and family services. Oral reports shall be followed by a report in writing within forty-eight hours after such oral report. Oral reports shall be made to the statewide central register of child abuse and maltreatment unless the appropriate local plan for the provision of child protective services provides that oral reports should be made to the local child protective service. In those localities in which oral reports are made initially to the local child protective service, the child protective service shall immediately make an oral or electronic report to the statewide central register. Written reports shall be made to the appropriate local child protective service except that written reports
involving children being cared for in a home operated or supervised by an authorized agency or the office of children and family services shall be made to the statewide central register of child abuse and maltreatment which shall transmit the reports to the agency responsible for investigating the report, in accordance with section four hundred twenty-four-b of this title. Written reports shall be made in a manner prescribed and on forms supplied by the commissioner of the office of children and family services and shall include the following information: the names and addresses of the child and his or her parents or other person responsible for his or her care, if known, and, as the case may be, the name and address of the program in which the child is receiving care; the child's age, sex and race; the nature and extent of the child's injuries, abuse or maltreatment, including any evidence of prior injuries, abuse or maltreatment to the child or, as the case may be, his or her siblings; the name of the person or persons alleged to be responsible for causing the injury, abuse or maltreatment, if known; family composition, where appropriate; the source of the report; the person making the report and where he or she can be reached; the actions taken by the reporting source, including the taking of photographs and x-rays, removal or keeping of the child or notifying the medical examiner or coroner; and any other information which the commissioner of the office of children and family services may, by regulation, require, or the person making the report believes might be helpful, in the furtherance of the purposes of this title. Notwithstanding the privileges set forth in article forty-five of the civil practice law and rules, and any other provision of law to the contrary, mandated reporters who make a report which initiates an investigation of an allegation of child abuse or maltreatment are required to comply with all requests for records made by a child protective service relating to such report, including records relating to diagnosis, prognosis or treatment, and clinical records, of any patient or client that are essential for a full investigation of allegations of child abuse or maltreatment pursuant to this title; provided, however, that disclosure of substance abuse treatment records shall be made pursuant to the standards and procedures for disclosure of such records delineated in federal law. Written reports from persons or officials required by this title to report shall be admissible in evidence in any proceedings relating to child abuse or maltreatment.

Social Services Law § 6-6416. Obligations of persons required to report.

Any person or official required to report cases of suspected child abuse and maltreatment may take or cause to be taken at public expense photographs of the areas of trauma visible on a child who is subject to a report and, if medically indicated, cause to be performed a radiological examination on the child. Any photographs or x-rays taken shall be sent to the child protective service at the time the written report is sent, or as soon thereafter as possible. Whenever such person is required to report under this title in his capacity as a member of the staff of a medical or other public or private institution, school, facility, or agency, he shall immediately notify the person in charge of such institution, school, facility or agency, or his designated agent, who shall then take or cause to be taken at public expense color photographs of visible trauma and shall, if medically indicated, cause to be performed a radiological examination on the child.

Social Services Law § 6-6-418. Mandatory reporting to and post-mortem investigation of deaths by medical examiner or coroner.

Any person or official required to report cases of suspected child abuse or maltreatment, including workers of the local child protective service who has reasonable cause to suspect that a child died as a result of child abuse or maltreatment shall report that fact to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation
and shall issue a preliminary written report of his or her finding within sixty days of the date of death, absent extraordinary circumstances, and his or her final written report promptly, absent extraordinary circumstances, to the police, the appropriate district attorney, the local child protective service, the office of children and family services, and, if the institution making the report is a hospital, the hospital. The office of children and family services shall promptly provide a copy of the preliminary and final reports to the statewide central register of child abuse and maltreatment.

Social Services Law § 6-6-419. Immunity from liability.

Any person, official, or institution participating in good faith in the providing of a service pursuant to section four hundred twenty-four of this title, the making of a report, the taking of photographs, the removal or keeping of a child pursuant to this title, or the disclosure of child protective services information in compliance with sections twenty, four hundred twenty-two and four hundred twenty-two-a of this chapter shall have immunity from any liability, civil or criminal, that might otherwise result by reason of such actions. For the purpose of any proceeding, civil or criminal, the good faith of any such person, official, or institution required to report cases of child abuse or maltreatment or providing a service pursuant to section four hundred twenty-four or the disclosure of child protective services information in compliance with sections twenty, four hundred twenty-two and four hundred twenty-two-a of this chapter shall be presumed, provided such person, official or institution was acting in discharge of their duties and within the scope of their employment, and that such liability did not result from the willful misconduct or gross negligence of such person, official or institution.

Social Services Law § 6-6-420. Penalties for failure to report.

1. Any person, official or institution required by this title to report a case of suspected child abuse or maltreatment who willfully fails to do so shall be guilty of a class A misdemeanor.

2. Any person, official or institution required by this title to report a case of suspected child abuse or maltreatment who knowingly and willfully fails to do so shall be civilly liable for the damages proximately caused by such failure.

Social Services Law § 6-6-421. Responsibility of the office.

The office shall:

1. in conjunction with local departments, both jointly and individually, within the appropriation available, conduct a continuing publicity and education program for local department staff, persons and officials required to report including district attorneys, assistant district attorneys, police officers, peace officers, investigators employed in the office of a district attorney, and any other appropriate persons to encourage the fullest degree of reporting of suspected child abuse or maltreatment. Such program shall be developed and implemented in coordination with those established pursuant to section 31.06 of the mental hygiene law, section twenty-eight hundred five-n of the public health law, section thirty-two hundred nine-a of the education law, sections two hundred fourteen-a and eight hundred forty of the executive law and article eleven of this chapter. The program shall include but not be limited to responsibilities, obligations and powers under this title and chapter as well as the diagnosis of child abuse and maltreatment, the procedures of the child protective service, the family court and other duly authorized
agencies and the prevention, treatment and remediation of abuse and maltreatment of children in residential care.

2. (a) provide technical assistance to local social services departments regarding case planning and provision of services and performance of other responsibilities pursuant to this title. Such assistance shall be provided on a regular, ongoing basis and shall also be made available as needed, upon request of any such local department.
(b) issue guidelines to assist local social services departments in evaluating and establishing investigative priorities for reports describing situations or events which may pose a clear and present danger to the life, health or safety of a child and which require immediate, personal contact between the local child protective service and the subject of the report, the subject's family, or any other persons named in the report.
(c) issue guidelines to assist local child protective services in the interpretation and assessment of reports of abuse and maltreatment made to the statewide central register described in section four hundred twenty-two of this article. Such guidelines shall include information, standards and criteria for the identification of credible evidence of alleged abuse and maltreatment required to determine whether a report may be indicated.

3. promulgate regulations setting forth requirements for the performance by local social services departments of the duties and powers imposed and conferred upon them by the provisions of this title and of article ten of the family court act. Such regulations shall establish uniform requirements for the investigation of reports of child abuse or maltreatment under this title. The department shall also issue guidelines which shall set forth the circumstances or conditions under which:
(a) personal contact shall be made with the child named in the report and any other children in the same household, including interviewing such child or children absent the subject of the report whenever possible and appropriate;
(b) photographs of visible physical injuries or trauma of children who may be the victims of abuse or maltreatment shall be taken or arranged for;
(c) medical examination of a child who may be a victim of abuse or maltreatment and documentation of findings of such examination, shall be required.
The department shall promulgate regulations to establish standards for intervention, criteria for case closings, criteria for determining whether or not to initiate a child protective proceeding, and criteria for the formulation of treatment plans and for the delivery of child protective services including specification of the services to be classified as child protective services, which shall also apply to any society for the prevention of cruelty to children which has entered into a currently valid contract with a local department of social services to investigate child abuse or maltreatment reports. The department shall promulgate regulations establishing minimum standards and practices for the delivery of child protective services in connection with monitoring and supervising respondents and their families as ordered by a family court pursuant to section ten hundred thirty-nine and paragraphs (i), (iii), (iv) and (v) of subdivision (a) of section ten hundred fifty-two of the family court act. Such regulations shall also require local child protective services to comply with notification requirements of the family court act in connection with such monitoring and supervisory responsibilities.

4. (a) after consultation with the local child protective services, promulgate regulations relating to staff qualifications for non-supervisory child protective services workers, prescribing any baccalaureate or equivalent college
degree and/or relevant human service experience as requirements. Such requirements shall not apply to persons currently employed by such child protective services who were hired before January first, nineteen hundred eighty-six.

(b) after consultation with the local child protective services, promulgate regulations relating to staff qualifications for those assigned to be supervisors of child protective services, prescribing any baccalaureate or equivalent college degree and/or relevant human services experience as requirements. Provided, however, that such regulations shall at a minimum provide that those assigned to be supervisors of child protective services have either a baccalaureate degree or three years of relevant work experience in a human services field. Such requirements shall not apply to persons currently assigned to be a child protective services supervisor who were hired before December first, two thousand six.

5.

(a) directly or through the purchase of services, implement, subject to the amounts appropriated therefor, an ongoing, statewide training program for employees of the department and of each local department of social services employed in the provision and supervision of child protective services or in other activities required in accordance with the provisions of this title.

(b) promulgate regulations setting forth training requirements which shall specify, among other things, that all persons hired by a child protective service on or after April first, nineteen hundred eighty-six shall have satisfactorily completed a course approved by the department within the first three months of employment, in the fundamentals of child protection. Such course shall include at least basic training in the principles and techniques of investigations, including relationships with other investigative bodies, legal issues in child protection, and methods of remediation, diagnosis, treatment and prevention. Such regulations shall also specify that all persons employed by a child protective service on or after December first, two thousand six shall satisfactorily complete six hours of annual in service training, beginning in their second year of employment. Such annual in service training shall include, but is not limited to, review of the protocols for identification and investigation of child abuse and maltreatment, any developments in legal, treatment and prevention issues in child protection, and review and analysis of field experiences of child protective services workers.

(c) require all persons assigned to be a supervisor by a child protective service on or after April first, nineteen hundred eighty-six, shall have satisfactorily completed, within the first three months of employment as a supervisor or within three months of the effective date of this paragraph, whichever shall occur first, a course in the fundamentals of child protection developed by the office of children and family services. Such training course shall, among other things, strengthen and expand current training procedures for child protective service supervisors; provide the skills, knowledge and standards to practice effective case planning and case management; provide comprehensive assessment tools needed in critical decision making; require participation in the existing common core training required by child protective service caseworkers; strengthen recognition and response to safety and risk indicators; improve skills to promote consistent implementation of training and practice; provide the necessary tools and assistance to build the ability to coach and monitor child protective service caseworkers and model effective investigation practice; increase cultural competency and sensitivity; and establish an annual in service training program specifically focused on child protective service supervisors.

(d) withhold reimbursement, otherwise payable to social services districts,
for the salaries of employees of child protective services who do not comply with the background review, educational, experience or training requirements of this title.

6. promulgate regulations which require social services districts to make local procedural manuals and service directories available to employees of a child protective service, service providers and other professionals involved in the prevention of child abuse and maltreatment.

7. take all reasonable and necessary actions to assure that the local departments of social services are kept apprised on a current basis of the laws, regulations and policies of the department concerning child abuse and maltreatment.

8. monitor and supervise the performance of the local departments of social services.

Social Services Law § 6-6-422-A. Child abuse and neglect investigations; disclosure.

N.Y. Soc. Serv. Law § 6-6-422-A

1. Notwithstanding any inconsistent provision of law to the contrary, the commissioner or a city or county social services commissioner may disclose information regarding the abuse or maltreatment of a child as set forth in this section, and the investigation thereof and any services related thereto if he or she determines that such disclosure shall not be contrary to the best interests of the child, the child's siblings or other children in the household and any one of the following factors are present:
   (a) the subject of the report has been charged in an accusatory instrument with committing a crime related to a report maintained in the statewide central register; or
   (b) the investigation of the abuse or maltreatment of the child by the local child protective service or the provision of services by such service has been publicly disclosed in a report required to be disclosed in the course of their official duties, by a law enforcement agency or official, a district attorney, any other state or local investigative agency or official or by judge of the unified court system; or
   (c) there has been a prior knowing, voluntary, public disclosure by an individual concerning a report of child abuse or maltreatment in which such individual is named as the subject of the report as defined by subdivision four of section four hundred twelve of this title; or
   (d) the child named in the report has died or the report involves the near fatality of a child. For the purposes of this section, “near fatality” means an act that results in the child being placed, as certified by a physician, in serious or critical condition.

2. For the purposes of this section, the following information may be disclosed:
   (a) the name of the abused or maltreated child;
   (b) the determination by the local child protective service or the state agency which investigated the report and the findings of the applicable investigating agency upon which such determination was based;
   (c) identification of child protective or other services provided or actions, if any, taken regarding the child named in the report and his or her family as a result of any such report or reports;
   (d) whether any report of abuse or maltreatment regarding such child has been “indicated” as maintained by the statewide central register;
   (e) any actions taken by the local child protective service and the local social services district in response to reports of abuse or maltreatment of the child to the statewide central register including but not limited to actions taken after each and every report of abuse or maltreatment of such child and the
dates of such reports;
(f) whether the child or the child's family has received care or services from
the local social services district prior to each and every report of abuse or
maltreatment of such child;
(g) any extraordinary or pertinent information concerning the circumstances
of the abuse or maltreatment of the child and the investigation thereof,
where the commissioner or the local commissioner determines such
disclosure is consistent with the public interest.

3. Information may be disclosed pursuant to this section as follows:
(a) information released prior to the completion of the investigation of a
report shall be limited to a statement that a report is “under investigation”;
(b) when there has been a prior disclosure pursuant to paragraph (a) of this
subdivision, information released in a case in which the report has been
unfounded shall be limited to the statement that “the investigation has been
completed, and the report has been unfounded”;
(c) if the report has been “indicated” then information may be released
pursuant to subdivision two of this section.

4. Any disclosure of information pursuant to this section shall be consistent with the
provisions of subdivision two of this section. Such disclosure shall not identify or
provide an identifying description of the source of the report, and shall not identify
the name of the abused or maltreated child's siblings, the parent or other person
legally responsible for the child or any other members of the child's household, other
than the subject of the report.

5. In determining pursuant to subdivision one of this section whether disclosure will
be contrary to the best interests of the child, the child's siblings or other children in
the household, the commissioner or a city or county social services commissioner
shall consider the interest in privacy of the child and the child's family and the effects
which disclosure may have on efforts to reunite and provide services to the family.

6. Whenever a disclosure of information is made pursuant to this section, the city
or county social services commissioner shall make a written statement prior to
disclosing such information to the chief county executive officer where the incident
occurred setting forth the paragraph in subdivision one of this section upon which he
or she is basing such disclosure.

7. Except as it applies directly to the cause of the abuse or maltreatment of the child,
nothing in this section shall be deemed to authorize the release or disclosure of the
substance or content of any psychological, psychiatric, therapeutic, clinical or medical
reports, evaluations or like materials or information pertaining to such child or the
child's family. Prior to the release or disclosure of any psychological, psychiatric or
therapeutic reports, evaluations or like materials or information pursuant to this
subdivision, the city or county social services commissioner shall consult with the
local mental hygiene director.

Social Services Law § 6-6-424. Duties of the child protective service
concerning reports of abuse or maltreatment.
N.Y. Soc. Serv. Law § 6-6-424

Each child protective service shall:

1. receive on a twenty-four hour, seven day a week basis all reports of suspected
child abuse or maltreatment in accordance with this title, the local plan for the
provision of child protective services and the regulations of the commissioner;

2. maintain and keep up-to-date a local child abuse and maltreatment register of all
cases reported under this title together with any additional information obtained and a record of the final disposition of the report, including services offered and accepted;

3. upon the receipt of each written report made pursuant to this title, transmit, forthwith, a copy thereof to the state central register of child abuse and maltreatment. In addition, not later than seven days after receipt of the initial report, the child protective service shall send a preliminary written report of the initial investigation, including evaluation and actions taken or contemplated, to the state central register. Follow-up reports shall be made at regular intervals thereafter in a manner and form prescribed by the commissioner by regulation to the end that the state central register is kept fully informed and up-to-date concerning the handling of reports;

4. give telephone notice and forward immediately a copy of reports made pursuant to this title which involve the death of a child to the appropriate district attorney. In addition, telephone notice shall be given and a copy of any or all reports made pursuant to this title shall be forwarded immediately by the child protective service to the appropriate district attorney if a prior request in writing for such notice and copies has been made to the service by the district attorney. Such request shall specify the kinds of allegations concerning which the district attorney requires such notice and copies and shall provide a copy of the relevant provisions of law;

5. forward an additional copy of each report to the appropriate duly incorporated society for the prevention of cruelty to children or other duly authorized child protective agency if a prior request for such copies has been made to the service in writing by the society or agency;

5-a. give telephone notice and forward immediately a copy of reports made pursuant to this title which involve suspected physical injury as described in paragraph (i) of subdivision (e) of section ten hundred twelve of the family court act or sexual abuse of a child or the death of a child to the appropriate local law enforcement. Investigations shall be conducted by an approved multidisciplinary investigative team, established pursuant to subdivision six of section four hundred twenty-three of this title provided that in counties without a multidisciplinary investigative team investigations shall be conducted jointly by local child protective services and local law enforcement. Provided however, that co-reporting in these instances shall not be required when the local social services district has an approved protocol on joint investigations of child abuse and maltreatment between the local district and law enforcement. Such protocol shall be submitted to the office of children and family services for approval and the office shall approve or disapprove of such protocols within thirty days of submission. Nothing in this subdivision shall prohibit local child protective services from consulting with local law enforcement on any child abuse or maltreatment report.

5-b. shall make an assessment in a timely manner of each report made pursuant to this title which involves suspected maltreatment which alleges any physical harm when the report is made by a person required to report pursuant to section four hundred thirteen of this title within six months of any other two reports that were indicated or may still be pending involving the same child, sibling, or other children in the household or the subject of the report to determine whether it is necessary to give notice of the report to the appropriate local law enforcement entity. If the local child protective services determines that local law enforcement shall be given notice, they shall give telephone notice and immediately forward a copy of the reports to local law enforcement. If the report is shared with local law enforcement, investigations shall be conducted by an approved multidisciplinary investigative team, established pursuant to subdivision six of section four hundred twenty-three of this title provided that in counties without a multidisciplinary investigative team investigations shall be conducted jointly by local child protective services and local
law enforcement. Provided however, that co-reporting in these instances shall not be required when the local social services district has an approved protocol on joint investigations of child abuse and maltreatment between the local district and law enforcement. Such protocol shall be submitted to the office of children and family services for approval and the office shall approve or disapprove of such protocols within thirty days of submission. Nothing in this subdivision shall modify the requirements of this section. Nothing in this subdivision shall prohibit local child protective services from consulting with local law enforcement on any child abuse or maltreatment report and nothing in this subdivision shall prohibit local child protective services and local law enforcement or a multidisciplinary team from agreeing to co-investigate any child abuse or maltreatment report.

6. (a) upon receipt of such report, commence or cause the appropriate society for the prevention of cruelty to children to commence, within twenty-four hours, an appropriate investigation which shall include an evaluation of the environment of the child named in the report and any other children in the same home and a determination of the risk to such children if they continue to remain in the existing home environment, as well as a determination of the nature, extent and cause of any condition enumerated in such report and the name, age and condition of other children in the home, and, after seeing to the safety of the child or children, forthwith notify the subjects of the report and other persons named in the report in writing of the existence of the report and their respective rights pursuant to this title in regard to amendment.

(b) subject to rules and regulations of the division of criminal justice services, a manager of the child protective services unit, or a person with law enforcement background who is specifically designated by the commissioner of the local social services district for this purpose, shall have access to conviction records maintained by state law enforcement agencies pertaining to persons of or over the age of eighteen years who (1) are currently residing in the residence of any child who is alleged to be or suspected of being abused, maltreated, or neglected or (2) are named in any report of suspected or alleged child abuse, maltreatment, or neglect; provided that nothing in this subdivision shall be construed to contradict or modify section one thousand forty-six of the family court act. Any criminal history record provided by the division of criminal justice services, and any summary of the criminal history record provided by the office of children and family services to the child protective services unit of a local social services district pursuant to this subdivision, shall be kept confidential and shall not be made available for public inspection. Child protective services units shall not indicate a report solely based upon the existence of a conviction record;

6-a. upon receipt of such report and commencement of the appropriate investigation, where the child protective service is not able to locate the child or has been denied access to the home or denied access to the child named in the report or to any children in the household, and where the child protective investigator has cause to believe a child or children's life or health may be in danger immediately advise the parent or person legally responsible for the child's care or with whom the child is residing that, when denied sufficient access to the child or other children in the home, the child protective investigator may contact the family court to seek an immediate court order to gain access to the home and/or the child named in the report or any children in the household without further notice and that while such request is being made to such court, law enforcement may be contacted and if contacted shall respond and shall remain where the child or children are or are believed to be present;

6-b. should the parent or persons legally responsible for the child's care or with
whom the child is residing continue to deny access to the child, children and/or home sufficient to allow the child protective investigator to determine their safety and if a child protective investigator seeks an immediate family court order to gain access to the child, children and/or home, law enforcement may be contacted and if contacted shall respond and shall remain where the child or children are or are believed to be present while the request is being made;

7. determine, within sixty days, whether the report is “indicated” or “unfounded”;

8. refer suspected cases of falsely reporting child abuse and maltreatment in violation of subdivision four of section 240.50 of the penal law to the appropriate law enforcement agency or district attorney;

9. take a child into protective custody to protect him from further abuse or maltreatment when appropriate and in accordance with the provisions of the family court act;

10. based on the investigation and evaluation conducted pursuant to this title, offer to the family of any child believed to be suffering from abuse or maltreatment such services for its acceptance or refusal, as appear appropriate for either the child or the family or both; provided, however, that prior to offering such services to a family, explain that it has no legal authority to compel such family to receive said services, but may inform the family of the obligations and authority of the child protective service to petition the family court for a determination that a child is in need of care and protection;

11. in those cases in which an appropriate offer of service is refused and the child protective service determines or if the service for any other appropriate reason determines that the best interests of the child require family court or criminal court action, initiate the appropriate family court proceeding or make a referral to the appropriate district attorney, or both;

12. assist the family court or criminal court during all stages of the court proceeding in accordance with the purposes of this title and the family court act;

13. coordinate, provide or arrange for and monitor, as authorized by the social services law, the family court act and by this title, rehabilitative services for children and their families on a voluntary basis or under a final or intermediate order of the family court.

14. comply with provisions of sections ten hundred thirty-nine-a and ten hundred fifty-two-a of the family court act.

The provisions of this section shall not apply to a child protective service with respect to reports involving children in homes operated or supervised by the office of children and family services, the office of mental health, or the office of people with developmental disabilities subject to the provisions of section four hundred twenty-four-b of this title.

Penal Law § 240.50 Falsely reporting an incident in the third degree.

N.Y. Pen. Law § 240.50

A person is guilty of falsely reporting an incident in the third degree when, knowing the information reported, conveyed or circulated to be false or baseless, he or she:

1. Initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a crime, catastrophe or emergency under circumstances in which it is not unlikely that public alarm or inconvenience will result; or

2. Reports, by word or action, to an official or quasi-official agency or organization
having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a catastrophe or emergency which did not in fact occur or does not in fact exist; or

3. Gratuitously reports to a law enforcement officer or agency (a) the alleged occurrence of an offense or incident which did not in fact occur; or (b) an allegedly impending occurrence of an offense or incident which in fact is not about to occur; or (c) false information relating to an actual offense or incident or to the alleged implication of some person therein; or

4. Reports, by word or action, an alleged occurrence or condition of child abuse or maltreatment or abuse or neglect of a vulnerable person which did not in fact occur or exist to:
   (a) the statewide central register of child abuse and maltreatment, as defined in title six of article six of the social services law or the vulnerable persons’ central register as defined in article eleven of such law, or
   (b) any person required to report cases of suspected child abuse or maltreatment pursuant to subdivision one of section four hundred thirteen of the social services law or to report cases of suspected abuse or neglect of a vulnerable person pursuant to section four hundred ninety-one of such law, knowing that the person is required to report such cases, and with the intent that such an alleged occurrence be reported to the statewide central register or vulnerable persons’ central register.

Falsely reporting an incident in the third degree is a class A misdemeanor.

**Family Court Act § 1046. Evidence.**

*N.Y. Family Court § 1046*

(a) In any hearing under this article and article ten-A of this act:
   (i) proof of the abuse or neglect of one child shall be admissible evidence on the issue of the abuse or neglect of any other child of, or the legal responsibility of, the respondent; and
   (ii) proof of injuries sustained by a child or of the condition of a child of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent or other person responsible for the care of such child shall be prima facie evidence of child abuse or neglect, as the case may be, of the parent or other person legally responsible; and
   (iii) proof that a person repeatedly misuses a drug or drugs or alcoholic beverages, to the extent that it has or would ordinarily have the effect of producing in the user thereof a substantial state of stupor, unconsciousness, intoxication, hallucination, disorientation, or incompetence, or a substantial impairment of judgment, or a substantial manifestation of irrationality, shall be prima facie evidence that a child of or who is the legal responsibility of such person is a neglected child except that such drug or alcoholic beverage misuse shall not be prima facie evidence of neglect when such person is voluntarily and regularly participating in a recognized rehabilitative program; and
   (iv) any writing, record or photograph, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any condition, act, transaction, occurrence or event relating to a child in an abuse or neglect proceeding of any hospital or any other public or private agency shall be admissible in evidence in proof of that condition, act, transaction, occurrence or event, if the judge finds that it was made in the regular course of the business of any hospital, or any other public or private agency and that it was in the regular course of such business to make it, at the time of the act, transaction, occurrence or event, or within a reasonable time thereafter. A certification by the head of or by a responsible employee of the hospital or agency that the writing, record or photograph is the full and complete record
of said condition, act, transaction, occurrence or event and that it was made in the regular course of the business of the hospital or agency and that it was in the regular course of such business to make it, at the time of the condition, act, transaction, occurrence or event, or within a reasonable time thereafter, shall be prima facie evidence of the facts contained in such certification. A certification by someone other than the head of the hospital or agency shall be accompanied by a photocopy of a delegation of authority signed by both the head of the hospital or agency and by such other employee. All other circumstances of the making of the memorandum, record or photograph, including lack of personal knowledge of the maker, may be proved to affect its weight, but they shall not affect its admissibility; and
(v) any report filed with the statewide central register of child abuse and maltreatment by a person or official required to do so pursuant to section four hundred thirteen of the social services law shall be admissible in evidence; and
(vi) previous statements made by the child relating to any allegations of abuse or neglect shall be admissible in evidence, but if uncorroborated, such statements shall not be sufficient to make a fact-finding of abuse or neglect. Any other evidence tending to support the reliability of the previous statements, including, but not limited to the types of evidence defined in this subdivision shall be sufficient corroboration. The testimony of the child shall not be necessary to make a fact-finding of abuse or neglect; and
(vii) neither the privilege attaching to confidential communications between husband and wife, as set forth in section forty-five hundred two of the civil practice law and rules, nor the physician-patient and related privileges, as set forth in section forty-five hundred four of the civil practice law and rules, nor the psychologist-client privilege, as set forth in section forty-five hundred seven of the civil practice law and rules, nor the social worker-client privilege, as set forth in section forty-five hundred eight of the civil practice law and rules, nor the rape crisis counselor-client privilege, as set forth in section forty-five hundred ten of the civil practice law and rules, shall be a ground for excluding evidence which otherwise would be admissible.
(viii) proof of the “impairment of emotional health” or “impairment of mental or emotional condition” as a result of the unwillingness or inability of the respondent to exercise a minimum degree of care toward a child may include competent opinion or expert testimony and may include proof that such impairment lessened during a period when the child was in the care, custody or supervision of a person or agency other than the respondent.

(b) In a fact-finding hearing:
(i) any determination that the child is an abused or neglected child must be based on a preponderance of evidence;
(ii) whenever a determination of severe or repeated abuse is based upon clear and convincing evidence, the fact-finding order shall state that such determination is based on clear and convincing evidence; and
(iii) except as otherwise provided by this article, only competent, material and relevant evidence may be admitted.

(c) In a dispositional hearing and during all other stages of a proceeding under this article, except a fact-finding hearing, and in permanency hearings and all other proceedings under article ten-A of this act, only material and relevant evidence may be admitted.

**Education Law § 409-L. Posting child abuse hotline telephone number.**

*N.Y. Educ. Law § 409-L*

1. Every public school including charter schools shall post in English and in Spanish the toll-free telephone number operated by the office of children and family services...
to receive reports of child abuse or neglect established under section four hundred twenty-two of the social services law and directions for accessing the office of children and family services website.

2. The commissioner shall adopt rules and regulations relating to the posting required by subdivision one of this section.

**Education Law § 1126. Duties of employees specifically enumerated in this section upon receipt of an allegation of child abuse in an educational setting.**

_N.Y. Educ. Law § 1126_

1. In any case where an oral or written allegation is made to a teacher, school nurse, school guidance counselor, school psychologist, school social worker, school administrator, school board member or other school personnel required to hold a teaching or administrative license or certificate, that a child has been subjected to child abuse by an employee or volunteer in an educational setting, such person shall upon receipt of such allegation:
   (a) promptly complete a written report of such allegation including the full name of the child alleged to be abused; the name of the child's parent; the identity of the person making the allegation and their relationship to the alleged child victim; the name of the employee or volunteer against whom the allegation was made; and a listing of the specific allegations of child abuse in an educational setting. Such written report shall be upon a form as prescribed in section eleven hundred thirty-two of this article.
   (b) except where the school administrator is the person receiving such oral or written allegation, promptly personally deliver a copy of such written report to the school administrator of the school in which the child abuse allegedly occurred.

2. In any case where it is alleged that a child was abused by an employee or volunteer of a school other than a school within the school district of the child's attendance, the report of such allegations shall be promptly forwarded to the superintendent of schools of the school district of the child's attendance and the school district where the abuse allegedly occurred, whereupon both school superintendents shall comply with sections eleven hundred twenty-eight and eleven hundred twenty-eight-a of this article.

3. Any employee or volunteer who reasonably and in good faith makes a report of allegations of child abuse in an educational setting to a person and in a manner described in this section shall have immunity from civil liability which might otherwise result by reason of such actions.

**Education Law § 1127. Confidentiality of records.**

_N.Y. Educ. Law § 1127_

Reports and other written material submitted pursuant to this article, and photographs taken concerning such reports in the possession of any person authorized to receive such information, pursuant to this article, shall be confidential and shall not be redisclosed except to law enforcement authorities involved in an investigation of child abuse in an educational setting or as expressly authorized by law or pursuant to a court-ordered subpoena. A school administrator or a school superintendent shall exercise reasonable care in preventing such unauthorized disclosure. Willful disclosure of a written record required to be kept confidential pursuant to this section to a person not authorized to receive or review such record is a class A misdemeanor.
Education Law § 1128. Duties of school administrators and superintendents upon receipt of a written report alleging child abuse in an educational setting.

N.Y. Educ. Law § 1128

Upon receipt of a written report described in paragraph (a) of subdivision one of section eleven hundred twenty-six of this article alleging that a child has been abused in an educational setting, a school administrator or superintendent shall where there is a reasonable suspicion to believe that an act of child abuse has occurred:

1. Where the subject child has made the allegation: (a) promptly notify the parent of such child that an allegation of child abuse in an educational setting has been made regarding such child and promptly provide the parent with a written statement prepared pursuant to regulations of the commissioner setting forth parental rights, responsibilities and procedures under this article; (b) where a school administrator receives a written report, promptly provide a copy of such report to the superintendent; and (c) promptly forward such report to appropriate law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent.

2. Where a parent of the child has made the allegation: (a) promptly provide the parent of such child with a written statement prepared pursuant to regulations of the commissioner setting forth parental rights, responsibilities and procedures under this article; (b) where a school administrator receives a written report, promptly provide a copy of such report to the superintendent; and (c) promptly forward such report to appropriate law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent.

3. Where a person other than the subject child or the parent of a subject child has made the allegation: (a) promptly notify the parent of the subject child that an allegation of child abuse in an educational setting has been made regarding his or her child and promptly provide the parent with a written statement prepared pursuant to regulations of the commissioner setting forth parental rights, responsibilities and procedures under this article; (b) ascertain from the person making such report the source and basis for such allegation; (c) where a school administrator receives a written report, promptly provide a copy of such report to the superintendent; and (d) promptly forward such report to appropriate law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent.

4. Any school administrator or superintendent who reasonably and in good faith makes a report of allegations of child abuse in an educational setting or reasonably and in good faith transmits such a report to a person or agency as required by this article and in a manner described in section eleven hundred twenty-six of this article and this section shall have immunity from civil liability which might otherwise result by reason of such actions.

Education Law § 1129. Penalties for failure to comply.

N.Y. Educ. Law § 1129

1. Willful failure of an employee to prepare and submit a written report of an allegation of child abuse as required by this article shall be a class A misdemeanor.

2. (a) Willful failure of a school administrator or superintendent to submit a written report of child abuse to an appropriate law enforcement authority, as required by this article, shall be a class A misdemeanor.
(b) Notwithstanding paragraph (a) of this subdivision, any failure to submit a
written report of child abuse to an appropriate law enforcement authority as required by this article, shall be punishable by a civil penalty not to exceed five thousand dollars upon an administrative determination by the commissioner.

Education Law § 3003. Qualifications of superintendents.
N.Y. Educ. Law § 3003

1. No person except one in possession of a valid superintendent's certificate prior to July first, nineteen hundred seventy-one shall hereafter be eligible to the position of superintendent of schools, deputy superintendent of schools, associate superintendent of schools, assistant superintendent of schools or other superintendent of schools or member of a board of examiners in a city school district or as a superintendent of schools in a union free or central school district having a population of more than forty-five hundred, or eligible to appointment to the office of district superintendent of schools in this state, who is not eligible for a superintendent's certificate issued by the commissioner in accordance with the following requirements: a. He shall be a graduate of a college or university approved by the commissioner and in addition shall have completed sixty semester hours in graduate courses approved by the commissioner; and b. At the time of his appointment each shall have completed three years of teaching experience satisfactory to the commissioner in public or non-public schools.

2. The commissioner of education shall issue a superintendent's permanent certificate to any person who on March twenty-fifth, nineteen hundred thirty-seven, held or was appointed to, a position of superintendent of schools, deputy superintendent of schools, associate superintendent of schools, assistant superintendent of schools or other superintendent of schools or member of a board of examiners in a city or as a superintendent of schools in a village having a population of more than forty-five hundred, or district superintendent of schools.

3. The commissioner, at the request of a board of education or board of cooperative educational services, may provide for the issuance of a certificate as superintendent of schools to exceptionally qualified persons who do not meet all of the graduate course or teaching requirements of subdivision one of this section, but whose exceptional training and experience are the substantial equivalent of such requirements and qualify such persons for the duties of a superintendent of schools.

4. Notwithstanding any other provision of law, the commissioner shall require that any person applying, on or after January first, nineteen hundred ninety-one, for a superintendent's certificate shall, in addition to all the other requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each applicant shall provide the department with documentation showing that he or she has completed the required training.

5. The commissioner may provide for the issuance of a certificate as deputy, associate or assistant superintendent for business to any qualified person who meets all of the requirements of subdivision one of this section, except those contained in paragraph b of subdivision one of this section.
Education Law § 3028-B. Notification of teachers’ duty to provide information and immunity from liability.
N.Y. Educ. Law § 3028-B

Each school shall annually provide to each teacher and all other school officials a written explanation concerning the reporting of pupil drug abuse, child abuse, and child abuse in an educational setting including the immunity provisions of section three thousand twenty-eight-a of this article and section eleven hundred twenty-six of this chapter and sections four hundred thirteen and four hundred nineteen of the social services law. The commissioner, with the assistance and cooperation of the commissioner of children and family services and the commissioner of criminal justice services, shall furnish each school district with the required information. Such information shall be updated by the commissioner at least once each school year.

Education Law § 3036. Coursework for reporting child abuse and maltreatment for those with coaching licenses or coaching certificates.
N.Y. Educ. Law § 3036

1. Notwithstanding any other provision of law, the commissioner shall prescribe regulations requiring that all persons currently holding a temporary coaching license or a professional coaching certificate and persons applying for such license or certificate shall, in addition to all the other licensure or certification requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each applicant shall provide the department with documentation showing that he or she has completed the required training.

2. Persons currently holding a temporary coaching license or a professional coaching certificate shall meet the coursework or training requirements prescribed in subdivision one of this section no later than July first, two thousand fifteen.

Education Law § 3209-A. Child abuse prevention – Compulsory Education.
N.Y. Educ. Law § 3209-A

Each school district of the state shall:

(1) develop, maintain and disseminate written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report and obligations for the provision of services and procedures necessary to safeguard the life or health of the child; and (2) establish, and implement on an ongoing basis, a training program for all current and new school officials regarding the policies and procedures established pursuant to this section.
Education Law § 6507. Administration by the education department.
N.Y. Educ. Law § 6507

1. The commissioner and the department shall administer the admission to and the practice of the professions.

2. In administering, the commissioner may:
   a. Promulgate regulations, except that no regulations shall be promulgated concerning article 131-A of this chapter;
   b. Conduct investigations;
   c. Issue subpoenas;
   d. Grant immunity from prosecution in accordance with section 50.20 of the criminal procedure law to anyone subpoenaed in any investigation or hearing conducted pursuant to this title; and
   e. Excuse, for cause acceptable to the commissioner, the failure to register with the department. Such excuse shall validate and authorize such practitioner's right to practice pending registration.

3. The department assisted by the board for each profession, shall:
   a. Establish standards for preprofessional and professional education, experience and licensing examinations as required to implement the article for each profession. Notwithstanding any other provision of law, the commissioner shall establish standards requiring that all persons applying, on or after January first, nineteen hundred ninety-one, initially, or for the renewal of, a license, registration or limited permit to be a physician, chiropractor, dentist, registered nurse, podiatrist, optometrist, psychiatrist, psychologist, licensed master social worker, licensed clinical social worker, licensed creative arts therapist, licensed marriage and family therapist, licensed mental health counselor, licensed psychoanalyst, dental hygienist, licensed behavior analyst, or certified behavior analyst assistant shall, in addition to all the other licensure, certification or permit requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Such coursework or training may also include information regarding the physical and behavioral indicators of the abuse of individuals with mental retardation and other developmental disabilities and voluntary reporting of abused or neglected adults to the office of mental retardation and developmental disabilities or the local adult protective services unit. Each applicant shall provide the department with documentation showing that he or she has completed the required training. The department shall provide an exemption from the child abuse and maltreatment training requirements to any applicant who requests such an exemption and who shows, to the department's satisfaction, that there would be no need because of the nature of his or her practice for him or her to complete such training;
   b. Review qualifications in connection with licensing requirements; and
   c. Provide for licensing examinations and reexaminations.

4. The department shall:
   a. Register or approve educational programs designed for the purpose of
providing professional preparation which meet standards established by the department.

b. Issue licenses, registrations, and limited permits to qualified applicants;
c.  
   (i) Issue a certificate of authority to a qualified professional service corporation being organized under section fifteen hundred three of the business corporation law or to a university faculty practice corporation being organized under section fourteen hundred twelve of the not-for-profit corporation law on payment of a fee of ninety dollars,  
   (ii) require such corporations to file a certified copy of each certificate of incorporation and amendment thereto within thirty days after the filing of such certificate or amendment on payment of a fee of twenty dollars,  
   (iii) require such corporations to file a triennial statement required by section fifteen hundred fourteen of the business corporation law on payment of a fee of one hundred five dollars.

d. Revoke limited permits on the recommendation of the committee on professional conduct for the profession concerned, except for limited permits issued to physicians, physician's assistants and specialist's assistants which shall be subject to sections two hundred thirty, two hundred thirty-a, two hundred thirty-b and two hundred thirty-c of the public health law;
e. Maintain public records of licenses issued and retain in its files identifying data concerning each person to whom a license has been issued;
e-1. Compile and make available to the New York city department of buildings in electronic form:
   (i) a list of all architects and professional engineers currently licensed by and registered with the department;  
   (ii) a list of all architects and professional engineers who currently hold limited permits issued by the department, together with the conditions and limitations applicable to each such limited permit; and  
   (iii) a list of all architects and professional engineers whose licenses have been revoked or suspended by the board of regents of the state of New York or who are currently on probation, together with the date of revocation or the date and duration of suspension or probation, as applicable.

The New York city department of buildings shall not accept plans or other documents submitted in connection with applications for work permits under articles ten through seventeen of subchapter one of chapter one of title twenty-seven of the administrative code of the city of New York by any person representing that he or she is an architect or professional engineer without verifying, by means of such lists, that such person meets the qualifications established by law to practice as an architect or professional engineer in New York state.

f. Collect the fees prescribed by this title or otherwise provided by law;
g. Prepare an annual report for the legislature, the governor and other executive offices, the state boards for the professions, professional societies, consumer agencies and other interested persons. Such report shall include but not be limited to a description and analysis of the administrative procedures and operations of the department based upon a statistical summary relating to (i) new licensure, (ii) discipline, (iii) complaint, investigation, and hearing backlog, (iv) budget, and (v) the state boards for the professions. Information provided shall be enumerated by profession; and

h. Establish an administrative unit which shall be responsible for the investigation, prosecution and determination of alleged violations of professional conduct.

5. Where an application is submitted for licensure or a limited permit in any profession regulated by this title and the commissioner determines that while
engaged in practice in another jurisdiction:

(i) the applicant has been subject to disciplinary action by a duly authorized professional disciplinary agency of such other jurisdiction, where the conduct upon which the disciplinary action was based would, if committed in New York state, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York state, or (ii) the applicant has voluntarily or otherwise surrendered his or her professional license in another jurisdiction after a disciplinary action was instituted by a duly authorized professional disciplinary agency of such other jurisdiction based on conduct that would, if committed in New York state, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York state, the department shall evaluate the conduct and the commissioner may deny licensure or issuance of a limited permit to the applicant based on such conduct.

6. The commissioner and the department shall perform any other functions necessary to implement this title.

Education Law § 6609-A. Mandatory continuing education for dental hygienists.

N.Y. Educ. Law § 6609-A

1. (A) Each dental hygienist, licensed pursuant to this article and required to register triennially with the department to practice in this state shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs (B) and (C) of this subdivision. Dental hygienists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and have been issued a registration or conditional registration certificate.

(B) Dental hygienists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by a physician, for extended active duty with the Armed Forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(C) A licensed dental hygienist not engaged in the practice of dental hygiene shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of dental hygiene during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be prescribed by regulation of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of twenty-four hours of acceptable formal continuing education including currently mandated child abuse reporting instruction and infection control training as approved by the department. Of these twenty-four hours a maximum of ten hours may be self-instructional coursework as approved by the department.

Any dental hygienist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-eight, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first, nineteen hundred ninety-seven up to the first registration date of the license.
date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of completion of required continuing education and who practices dental hygiene without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in this section, “acceptable formal continuing education” shall mean formal programs of learning which contribute to professional practice and which meet the standards prescribed by regulations of the commissioner. To fulfill the mandatory continuing education requirement, programs must be taken from sponsors approved by the department, pursuant to the regulations of the commissioner.

5. The mandatory continuing education fee of thirty dollars shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section sixty-six hundred nine of this article.

**Administrative Code § 20-817. Confidentiality of health and personal information – Pregnancy Services.**

*N.Y. Admin. Law § 20-817*

a. All health information and personal information provided by a client in the course of inquiring about or seeking services at a pregnancy services center shall be treated as confidential and not disclosed to any other individual, company or organization unless such client, in writing, requests or consents to the release of such information, or disclosure is required by operation of law or court order.

b. Any consent for the release of health or personal information required pursuant to subdivision a of this section must:
   (1) be in writing, dated and signed by the client;
   (2) identify the nature of the information to be disclosed;
   (3) identify the name and institutional affiliation of the person or class of persons to whom the information is to be disclosed;
   (4) identify the organization or individual who is to make the disclosure;
   (5) identify the client;
   (6) contain an expiration date or an expiration event that relates to the client or the purpose of the use or disclosure.

c. Any client that consents to the release of health or personal information pursuant to subdivision b of this section must have a clear and complete understanding of the nature of such release and the content of such information.

d. Notwithstanding subdivisions a and b of this section, if any pregnancy services center employee or volunteer has reasonable cause to suspect that a client receiving services at a pregnancy services center is an abused or maltreated child, such
employee or volunteer may report such abuse to the statewide central register of child abuse and maltreatment in accordance with section four-hundred thirteen or four-hundred fourteen of the social services law of New York, and to the administration for children's services, and/or the police department, and cooperate in the investigation related thereto to the extent permitted by applicable state and federal law. For the purposes of this subdivision, “abused child” and “maltreated child” shall be defined in accordance with section four-hundred twelve of the social services law of New York, or as a person under the age of eighteen whose parent or guardian legally responsible for such person's care inflicts serious physical injury upon such person, creates a substantial risk of serious physical injury, or commits an act of sexual abuse against such person. Reporting child abuse and maltreatment as defined in this subdivision to an individual or entity other than the statewide central registrar of child abuse and maltreatment, the administration for children's services or the police department shall be a violation of this section.


N.Y.C Admin. Code § 21-120

a. In addition to any other requirement pursuant to any other law or regulation, the department shall provide training in the detection and reporting of child abuse for all appropriate current and prospective day care and head start personnel.
b. The department shall issue and circulate an appropriate publication containing information with respect to child abuse. Such information shall be distributed to all providers of child day care services and to the parent or guardian of, or person legally responsible for, each child receiving day care services. Such publication shall contain the emergency telephone number to report suspected child abuse.


N.Y. Admin. Law § 21-314.1

a. The commissioner shall, in consultation with not-for-profit organizations dedicated to the advocacy of child welfare, establish, maintain, and update signage and any other materials that are deemed necessary related to the reporting of child abuse and maltreatment which shall be conspicuously placed in all Tier II shelters and any other facilities that shelter homeless families and which shall include but not be limited to:

1. A textual representation of the type of abusive or neglectful behavior that should be reported, which encourages witnesses of such behavior to report any suspected incidents of child abuse or maltreatment;
2. The name and contact information of the appropriate person or agency to whom suspected incidents of child abuse or maltreatment are to be reported; and
3. An explicit indication of which persons are mandated to report suspected incidents of child abuse or maltreatment pursuant to section 413 of the social services law.

b. The commissioner shall, in consultation with not-for-profit organizations dedicated to the study or dissemination of information about proper infant sleep position and arrangement, establish, maintain, and update signage and any other materials that are deemed necessary related to proper infant sleep position and arrangement which shall include, but not be limited to, a textual and pictorial representation of proper infant sleep position and arrangement. Such signage shall be displayed conspicuously, at a minimum, in every common area of a Tier II shelter and any other facility that shelters homeless families.
c. The commissioner shall provide for the translation of the signage required in subdivisions a and b of this section and any other materials deemed necessary pursuant to this section into every covered language as defined pursuant to section 8-1004 of this code.

d. In addition to the signage and materials provided for in subdivisions a and b of this section, the commissioner shall establish, maintain, and provide training for appropriate shelter employees in the instruction of parents with regard to proper infant sleeping position and arrangement.

N.Y. Pub. Health Law § 2805-N

All hospitals shall:

(i) develop, maintain and disseminate written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report and obligations for the provision of services and procedures necessary to safeguard the life or health of the child; and (ii) establish, and implement on an ongoing basis, a training program for all current and new employees regarding the policies and procedures established pursuant to this section.

c. The department shall establish a telephone number to provide assistance and information with respect to child abuse and shall publicize the telephone number and require that such number be prominently displayed in all child day care centers.

N.Y. Pub. Health Law § 2805-Y

1. As used in this section:
   (a) “human trafficking victim” shall have the meaning set forth in section four hundred eighty-three- aa of the social services law;
   (b) “subject facility” shall mean a general hospital, public health center, diagnostic center, treatment center or outpatient department;
   (c) “subject facility personnel” shall mean nursing, medical, social work and other clinical care personnel, and security personnel in the subject facility service units; and
   (d) “subject facility service units” shall mean the service units of the subject facility that include the following areas:
       (i) emergency services;
       (ii) pediatrics;
       (iii) obstetrics and gynecology;
       (iv) orthopedics;
       (v) internal medicine;
       (vi) family medicine;
       (vii) radiology;
       (viii) surgery;
       (ix) psychiatry; and
       (x) dental services to the extent the subject facility maintains a dental clinic, center or department on site of the subject facility.

2. Every subject facility shall provide for the identification, assessment, and appropriate treatment or referral of persons suspected as human trafficking victims,
and in the case of persons under eighteen years old, the reporting of such persons as an abused or maltreated child if required under title six of article six of the social services law. The subject facility shall establish and implement written policies and procedures under this section which shall apply to all subject facility service units.

3. Every subject facility shall provide, on an ongoing basis, to all subject facility personnel training regarding the policies and procedures established under this section, including training in the recognition of indicators of a human trafficking victim and the responsibilities of such personnel in dealing with persons suspected as human trafficking victims. Such training may be incorporated as part of the subject facility’s existing training programs, provided that the training includes all of the requirements of this section.

4. The commissioner may identify organizations or providers for consideration by subject facilities to provide training under this section. The commissioner may, in consultation with the office of temporary and disability assistance and the office of children and family services, make regulations under this section.

Mental Hygiene Law § 32.11. Child abuse prevention – Chemical Dependence, Gambling, etc.

N.Y. Mental Hyg. Law § 32.11

All providers of services described in subdivision (a) of section 32.05 of this article, shall:

(a) develop, maintain and disseminate written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report, and obligations for the provision of services and procedures necessary to safeguard the life or health of the child; and

(b) develop, maintain, and disseminate written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report, and obligations for the provision of services and procedures necessary to safeguard the life or health of the child.

Mental Hygiene Law § 31.06. Child abuse prevention – Services for the mentally disabled.

N.Y. Mental Hyg. Law § 31.06

All facilities described in subdivision (a) of section 31.02 of this article, shall, pursuant to regulations of the commissioner:

(i) develop, maintain, and disseminate written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report, and obligations for the provision of services and procedures necessary to safeguard the life or health of the child; and

(ii) establish, and implement on an ongoing basis, a training program for all current and new employees regarding the policies and procedures established pursuant to this section.


N.Y. Exec. Law § 214-A
The superintendent shall, for all members of the state police:

(1) develop, maintain and disseminate written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report and obligations for the provision of services and procedures necessary to safeguard the life or health of the child; and

(2) establish, and implement on an ongoing basis, a training program for all current and new employees regarding the policies and procedures established pursuant to this section.
§ 7B-301. Duty to report abuse, neglect, dependency, or death due to maltreatment.

(a) Any person or institution who has cause to suspect that any juvenile is abused, neglected, or dependent, as defined by G.S. 7B-101, or has died as the result of maltreatment, shall report the case of that juvenile to the director of the department of social services in the county where the juvenile resides or is found. The report may be made orally, by telephone, or in writing. The report shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention. If the report is made orally or by telephone, the person making the report shall give the person's name, address, and telephone number. Refusal of the person making the report to give a name shall not preclude the department's assessment of the alleged abuse, neglect, dependency, or death as a result of maltreatment.

(b) Any person or institution who knowingly or wantonly fails to report the case of a juvenile as required by subsection (a) of this section, or who knowingly or wantonly prevents another person from making a report as required by subsection (a) of this section, is guilty of a Class 1 misdemeanor.


§ 7B-302. Assessment by director; access to confidential information; notification of person making the report.

(a) When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a prompt and thorough assessment, using either a family assessment response or an investigative assessment response, in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the director shall immediately, but no later than 24 hours after receipt of the report, initiate the assessment. When the report alleges neglect or dependency, the director shall initiate the assessment within 72 hours following receipt of the report. When the report alleges abandonment of a juvenile or unlawful transfer of custody under G.S. 14-321.2, the director shall immediately initiate an assessment. When the report alleges abandonment, the director shall also take appropriate steps to assume temporary custody of the juvenile, and take appropriate steps to secure an order for nonsecure custody of the juvenile. The assessment and evaluation shall include a visit to the place where the juvenile resides. When the report alleges abandonment, the assessment shall include a request from the director to law enforcement officials to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the juvenile is a missing child.

(a1) All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department, except under the following circumstances:

(1) The department shall disclose confidential information to any federal, State, or local government entity or its agent in order to protect a juvenile from abuse or neglect. Any confidential information disclosed to any...
federal, State, or local government entity or its agent under this subsection shall remain confidential with the other government entity or its agent and shall only be redisclosed for purposes directly connected with carrying out that entity's mandated responsibilities.

(1a) The department shall disclose confidential information regarding the identity of the reporter to any federal, State, or local government entity or its agent with a court order. The department may only disclose confidential information regarding the identity of the reporter to a federal, State, or local government entity or its agent without a court order when the entity demonstrates a need for the reporter's name to carry out the entity's mandated responsibilities.

(2) The information may be examined upon request by the juvenile's guardian ad litem or the juvenile, including a juvenile who has reached age 18 or been emancipated.

(3) A district or superior court judge of this State presiding over a civil matter in which the department of social services is not a party may order the department to release confidential information, after providing the department with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the trial of the matter before the court and unavailable from any other source. This subdivision shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law, before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The department of social services may surrender the requested records to the court, for in camera review, if the surrender is necessary to make the required determinations.

(4) A district or superior court judge of this State presiding over a criminal or delinquency matter shall conduct an in camera review prior to releasing to the defendant or juvenile any confidential records maintained by the department of social services, except those records the defendant or juvenile is entitled to pursuant to subdivision (2) of this subsection.

(5) The department may disclose confidential information to a parent, guardian, custodian, or caretaker in accordance with G.S. 7B-700 of this Subchapter.

(a2) If the director, at any time after receiving a report that a juvenile may be abused, neglected, or dependent, determines that the juvenile's legal residence is in another county, the director shall promptly notify the director in the county of the juvenile's residence, and the two directors shall coordinate efforts to ensure that appropriate actions are taken.

(b) When a report of a juvenile's death as a result of suspected maltreatment or a report of suspected abuse, neglect, or dependency of a juvenile in a noninstitutional setting is received, the director of the department of social services shall immediately ascertain if other juveniles live in the home, and, if so, initiate an assessment in order to determine whether they require protective services or whether immediate removal of the juveniles from the home is necessary for their protection. When a report of a juvenile's death as a result of maltreatment or a report of suspected abuse, neglect, or dependency of a juvenile in an institutional setting such as a residential child care facility or residential educational facility is received, the director of the department of social services shall immediately ascertain if other juveniles remain in the facility subject to the alleged perpetrator's care or supervision, and, if so, assess the circumstances of those juveniles in order to determine whether they require protective services or whether immediate removal of those juveniles from the facility is necessary for their protection.

(c) If the assessment indicates that abuse, neglect, or dependency has occurred,
the director shall decide whether immediate removal of the juvenile or any other juveniles in the home is necessary for their protection. If immediate removal does not seem necessary, the director shall immediately provide or arrange for protective services. If the parent, guardian, custodian, or caretaker refuses to accept the protective services provided or arranged by the director, the director shall sign a petition seeking to invoke the jurisdiction of the court for the protection of the juvenile or juveniles.

(d) If immediate removal seems necessary for the protection of the juvenile or other juveniles in the home, the director shall sign a petition that alleges the applicable facts to invoke the jurisdiction of the court. Where the assessment shows that it is warranted, a protective services worker may assume temporary custody of the juvenile for the juvenile's protection pursuant to Article 5 of this Chapter.

(d1) Whenever a juvenile is removed from the home of a parent, guardian, custodian, stepparent, or adult relative entrusted with the juvenile's care due to physical abuse, the director shall conduct a thorough review of the background of the alleged abuser or abusers. This review shall include a criminal history check and a review of any available mental health records. If the review reveals that the alleged abuser or abusers have a history of violent behavior against people, the director shall petition the court to order the alleged abuser or abusers to submit to a complete mental health evaluation by a licensed psychologist or psychiatrist.

(e) In performing any duties related to the assessment of the report or the provision or arrangement for protective services, the director may consult with any public or private agencies or individuals, including the available State or local law enforcement officers who shall assist in the assessment and evaluation of the seriousness of any report of abuse, neglect, or dependency when requested by the director. The director or the director's representative may make a written demand for any information or reports, whether or not confidential, that may in the director's opinion be relevant to the assessment or provision of protective services. Upon the director's or the director's representative's request and unless protected by the attorney-client privilege, any public or private agency or individual shall provide access to and copies of this confidential information and these records to the extent permitted by federal law and regulations. If a custodian of criminal investigative information or records believes that release of the information will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information. In such an action, the custodian of the records shall have the burden of showing by a preponderance of the evidence that disclosure of the information in question will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation. Actions brought pursuant to this paragraph shall be set down for immediate hearing, and subsequent proceedings in the actions shall be accorded priority by the trial and appellate courts.

(f) Within five working days after receipt of the report of abuse, neglect, or dependency, the director shall give written notice to the person making the report, unless requested by that person not to give notice, as to whether the report was accepted for assessment and whether the report was referred to the appropriate State or local law enforcement agency.

(g) Within five working days after completion of the protective services assessment, the director shall give subsequent written notice to the person making the report, unless requested by that person not to give notice, as to whether there is a finding of abuse, neglect, or dependency, whether the county department of social services is taking action to protect the juvenile, and what action it is taking, including whether or not a petition was filed. The person making the report shall be informed of
procedures necessary to request a review by the prosecutor of the director's decision not to file a petition. A request for review by the prosecutor shall be made within five working days of receipt of the second notification. The second notification shall include notice that, if the person making the report is not satisfied with the director's decision, the person may request review of the decision by the prosecutor within five working days of receipt. The person making the report may waive the person's right to this notification, and no notification is required if the person making the report does not identify himself to the director.

(h) The director or the director's representative may not enter a private residence for assessment purposes without at least one of the following:
   (1) The reasonable belief that a juvenile is in imminent danger of death or serious physical injury.
   (2) The permission of the parent or person responsible for the juvenile's care.
   (3) The accompaniment of a law enforcement officer who has legal authority to enter the residence.
   (4) An order from a court of competent jurisdiction.

§ 7B-303. Interference with assessment.

(a) If any person obstructs or interferes with an assessment required by G.S. 7B-302, the director may file a petition naming that person as respondent and requesting an order directing the respondent to cease the obstruction or interference. The petition shall contain the name and date of birth and address of the juvenile who is the subject of the assessment; shall include a concise statement of the basis for initiating the assessment; shall specifically describe the conduct alleged to constitute obstruction of or interference with the assessment; and shall be verified.

(b) For purposes of this section, obstruction of or interference with an assessment means refusing to disclose the whereabouts of the juvenile, refusing to allow the director to have personal access to the juvenile, refusing to allow the director to observe or interview the juvenile in private, refusing to allow the director access to confidential information and records upon request pursuant to G.S. 7B-302, refusing to allow the director to arrange for an evaluation of the juvenile by a physician or other expert, or other conduct that makes it impossible for the director to carry out the duty to assess the juvenile's condition.

(c) Upon filing of the petition, the court shall schedule a hearing to be held not less than five days after service of the petition and summons on the respondent. Service of the petition and summons and notice of hearing shall be made as provided by the Rules of Civil Procedure on the respondent; the juvenile's parent, guardian, custodian, or caretaker; and any other person determined by the court to be a necessary party. If at the hearing on the petition the court finds by clear, cogent, and convincing evidence that the respondent, without lawful excuse, has obstructed or interfered with an assessment required by G.S. 7B-302, the court may order the respondent to cease such obstruction or interference. The burden of proof shall be on the petitioner.

(d) If the director has reason to believe that the juvenile is in need of immediate protection or assistance, the director shall so allege in the petition and may seek an ex parte order from the court. If the court, from the verified petition and any inquiry the court makes of the director, finds probable cause to believe both that the juvenile is at risk of immediate harm and that the respondent is obstructing or interfering with the director's ability to assess the juvenile's condition, the court may enter an ex parte order directing the respondent to cease the obstruction or interference. The order shall be limited to provisions necessary to enable the director to conduct
an assessment sufficient to determine whether the juvenile is in need of immediate protection or assistance. Within 10 days after the entry of an ex parte order under this subsection, a hearing shall be held to determine whether there is good cause for the continuation of the order or the entry of a different order. An order entered under this subsection shall be served on the respondent along with a copy of the petition, summons, and notice of hearing.

(e) The director may be required at a hearing under this section to reveal the identity of any person who made a report of suspected abuse, neglect, or dependency as required by G.S. 7B-301.

(f) An order entered pursuant to this section is enforceable by civil or criminal contempt as provided in Chapter 5A of the General Statutes.

§ 7B-307. Duty of director to report evidence of abuse, neglect; investigation by local law enforcement; notification of Department of Health and Human Services.


(a) If the director finds evidence that a juvenile may have been abused as defined by G.S. 7B-101, the director shall make an immediate oral and subsequent written report of the findings to the district attorney or the district attorney's designee and the appropriate local law enforcement agency within 48 hours after receipt of the report. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate and coordinate a criminal investigation with the protective services assessment being conducted by the county department of social services. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate and may request the director or the director's designee to appear before a magistrate.

If the director receives information that a juvenile may have been physically harmed in violation of any criminal statute by any person other than the juvenile's parent, guardian, custodian, or caretaker, the director shall make an immediate oral and subsequent written report of that information to the district attorney or the district attorney's designee and to the appropriate local law enforcement agency within 48 hours after receipt of the information. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate a criminal investigation. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate.

If the report received pursuant to G.S. 7B-301 involves abuse or neglect of a juvenile or child maltreatment, as defined in G.S. 110-105.3, in child care, the director shall notify the Department of Health and Human Services within 24 hours or on the next working day of receipt of the report.

(b), (c) Repealed by S.L. 2015-123, § 5, eff. Jan. 1, 2016.

The director of the department of social services shall submit a report of alleged abuse, neglect, or dependency cases or child fatalities that are the result of alleged maltreatment to the central registry under the policies adopted by the Social Services Commission.

§ 7B-308. Authority of medical professionals in abuse cases.


(a) Any physician or administrator of a hospital, clinic, or other medical facility to which a suspected abused juvenile is brought for medical diagnosis or treatment shall have the right, when authorized by the chief district court judge of the district or the judge's designee, to retain physical custody of the juvenile in the facility when
the physician who examines the juvenile certifies in writing that the juvenile who is suspected of being abused should remain for medical treatment or that, according to the juvenile's medical evaluation, it is unsafe for the juvenile to return to the juvenile's parent, guardian, custodian, or caretaker. This written certification must be signed by the certifying physician and must include the time and date that the judicial authority to retain custody is given. Copies of the written certification must be appended to the juvenile's medical and judicial records and another copy must be given to the juvenile's parent, guardian, custodian, or caretaker. The right to retain custody in the facility shall exist for up to 12 hours from the time and date contained in the written certification.

(b) Immediately upon receipt of judicial authority to retain custody, the physician, the administrator, or that person's designee shall so notify the director of social services for the county in which the facility is located. The director shall treat this notification as a report of suspected abuse and shall immediately begin an assessment of the case.

(1) If the assessment reveals (i) that it is the opinion of the certifying physician that the juvenile is in need of medical treatment to cure or alleviate physical distress or to prevent the juvenile from suffering serious physical injury, and (ii) that it is the opinion of the physician that the juvenile should for these reasons remain in the custody of the facility for 12 hours, but (iii) that the juvenile's parent, guardian, custodian, or caretaker cannot be reached or, upon request, will not consent to the treatment within the facility, the director shall within the initial 12-hour period file a juvenile petition alleging abuse and setting forth supporting allegations and shall seek a nonsecure custody order. A petition filed and a nonsecure custody order obtained in accordance with this subdivision shall come on for hearing under the regular provisions of this Subchapter unless the director and the certifying physician together voluntarily dismiss the petition.

(2) In all cases except those described in subdivision (1) above, the director shall conduct the assessment and may initiate juvenile proceedings and take all other steps authorized by the regular provisions of this Subchapter. If the director decides not to file a petition, the physician, the administrator, or that person's designee may ask the prosecutor to review this decision according to the provisions of G.S. 7B-305 and G.S. 7B-306.

(c) If, upon hearing, the court determines that the juvenile is found in a county other than the county of legal residence, in accord with G.S. 153A-257, the juvenile may be transferred, in accord with G.S. 7B-903(2), to the custody of the department of social services in the county of residence.

(d) If the court, upon inquiry, determines that the medical treatment rendered was necessary and appropriate, the cost of that treatment may be charged to the parents, guardian, custodian, or caretaker, or, if the parents are unable to pay, to the county of residence in accordance with G.S. 7B-903 and G.S. 7B-904.

(e) Except as otherwise provided, a petition begun under this section shall proceed in like manner with petitions begun under G.S. 7B-302.

(f) The procedures in this section are in addition to, and not in derogation of, the abuse and neglect reporting provisions of G.S. 7B-301 and the temporary custody provisions of G.S. 7B-500. Nothing in this section shall preclude a physician or administrator and a director of social services from following the procedures of G.S. 7B-301 and G.S. 7B-500 whenever these procedures are more appropriate to the juvenile's circumstances.

Anyone who makes a report pursuant to this Article, cooperates with the county department of social services in a protective services assessment, testifies in any judicial proceeding resulting from a protective services report or assessment, or otherwise participates in the program authorized by this Article, is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed.

§ 7B-310. Privileges not grounds for failing to report or for excluding evidence.

No privilege shall be grounds for any person or institution failing to report that a juvenile may have been abused, neglected, or dependent, even if the knowledge or suspicion is acquired in an official professional capacity, except when the knowledge or suspicion is gained by an attorney from that attorney's client during representation only in the abuse, neglect, or dependency case. No privilege, except the attorney-client privilege, shall be grounds for excluding evidence of abuse, neglect, or dependency in any judicial proceeding (civil, criminal, or juvenile) in which a juvenile's abuse, neglect, or dependency is in issue nor in any judicial proceeding resulting from a report submitted under this Article, both as this privilege relates to the competency of the witness and to the exclusion of confidential communications.

§ 7B-700. Sharing of information; discovery.

(a) Sharing of Information. - A department of social services is authorized to share with any other party information relevant to the subject matter of an action pending under this Subchapter. However, this subsection does not authorize the disclosure of the identity of the reporter or any uniquely identifying information that would lead to the discovery of the reporter's identity in accordance with G.S. 7B-302 or the identity of any other person where the agency making the information available determines that the disclosure would be likely to endanger the life or safety of the person.

(b) Local Rules. - The chief district court judge may adopt local rules or enter an administrative order addressing the sharing of information among parties and the use of discovery.

(c) Discovery. - Any party may file a motion for discovery. The motion shall contain a specific description of the information sought and a statement that the requesting party has made a reasonable effort to obtain the information pursuant to subsections (a) and (b) of this section or that the information cannot be obtained pursuant to subsections (a) and (b) of this section. The motion shall be served upon all parties pursuant to G.S. 1A-1, Rule 5. The motion shall be heard and ruled upon within 10 business days of the filing of the motion. The court may grant, restrict, defer, or deny the relief requested. Any order shall avoid unnecessary delay of the hearing, establish expedited deadlines for completion, and conform to G.S. 7B-803.

(d) Protective Order. - Any party served with a motion for discovery may request that the discovery be denied, restricted, or deferred and shall submit, for in camera inspection, the document, information, or materials the party seeks to protect. If the court enters any order granting relief, copies of the documents, information, or materials submitted in camera shall be preserved for appellate review in the event of
an appeal.

(e) Redisclosure. - Information obtained through discovery or sharing of information under this section may not be redisclosed if the redisclosure is prohibited by State or federal law.

(f) Guardian Ad Litem. - Unless provided otherwise by local rules, information or reports obtained by the guardian ad litem pursuant to G.S. 7B-601 are not subject to disclosure pursuant to this subsection, except that reports and records shall be shared with all parties before submission to the court.

§ 7B-1700.1. Duty to report abuse, neglect, dependency.

Any time a juvenile court counselor or any person has cause to suspect that a juvenile is abused, neglected, or dependent, or has died as the result of maltreatment, the juvenile court counselor or the person shall make a report to the county department of social services as required by G.S. 7B-301.


(a) Notwithstanding the provisions of G.S. 8-53 and G.S. 8-53.13, the physician-patient or nurse privilege shall not be a ground for excluding evidence regarding the abuse or neglect of a child under the age of 16 years or regarding an illness of or injuries to such child or the cause thereof in any judicial proceeding related to a report pursuant to the North Carolina Juvenile Code, Chapter 7B of the General Statutes of North Carolina.

(b) Nothing in this Article shall preclude a health care provider, as defined in G.S. 90-21.11, from disclosing information pursuant to G.S. 90-21.20B.

§ 8-53.3. Communications between psychologist and client or patient.

No person, duly authorized as a licensed psychologist or licensed psychological associate, nor any of his or her employees or associates, shall be required to disclose any information which he or she may have acquired in the practice of psychology and which information was necessary to enable him or her to practice psychology. Any resident or presiding judge in the district in which the action is pending may, subject to G.S. 8-53.6, compel disclosure, either at the trial or prior thereto, if in his or her opinion disclosure is necessary to a proper administration of justice. If the case is in district court the judge shall be a district court judge, and if the case is in superior court the judge shall be a superior court judge.

Notwithstanding the provisions of this section, the psychologist-client or patient privilege shall not be grounds for failure to report suspected child abuse or neglect to the appropriate county department of social services, or for failure to report a disabled adult suspected to be in need of protective services to the appropriate county department of social services. Notwithstanding the provisions of this section, the psychologist-client or patient privilege shall not be grounds for excluding evidence regarding the abuse or neglect of a child, or an illness of or injuries to a child, or the cause thereof, or for excluding evidence regarding the abuse, neglect, or exploitation of a disabled adult, or an illness of or injuries to a disabled adult, or the cause thereof, in any judicial proceeding related to a report pursuant to the Child Abuse Reporting Law, Article 3 of Chapter 7B of the General Statutes, or to
the Protection of the Abused, Neglected, or Exploited Disabled Adult Act, Article 6 of Chapter 108A of the General Statutes.


Notwithstanding the provisions of G.S. 8-56 and G.S. 8-57, the husband-wife privilege shall not be ground for excluding evidence regarding the abuse or neglect of a child under the age of 16 years or regarding an illness of or injuries to such child or the cause thereof in any judicial proceeding related to a report pursuant to the Child Abuse Reporting Law, Article 3 of Chapter 7B of the General Statutes of North Carolina.

§ 14-318.5. Failure to report the disappearance of a child to law enforcement; immunity of person reporting in good faith.

(a) The following definitions apply in this section:
   (1) Child. - Any person who is less than 16 years of age.
   (2) Disappearance of a child. - When the parent or other person providing supervision of a child does not know the location of the child and has not had contact with the child for a 24-hour period.

(b) A parent or any other person providing care to or supervision of a child who knowingly or wantonly fails to report the disappearance of a child to law enforcement is in violation of this subsection. Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this subsection is punishable as a Class I felony.

(c) Any person who reasonably suspects the disappearance of a child and who reasonably suspects that the child may be in danger shall report those suspicions to law enforcement within a reasonable time. Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this subsection is punishable as a Class 1 misdemeanor.

(d) This section does not apply if G.S. 110-102.1 is applicable.

(e) Notwithstanding subsection (b) or (c) of this section, if a child is absent from school, a teacher is not required to report the child's absence to law enforcement officers under this section, provided the teacher reports the child's absence from school pursuant to Article 26 of Chapter 115C of the General Statutes.

(f) The felony of failure to report the disappearance of a child as required by subsection (b) of this section is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(g) Any person who reports the disappearance of a child as required by this section is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action, provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed.

§ 110-105.4. Duty to report child maltreatment.

(a) Any person who has cause to suspect that a child in a child care facility has been maltreated, as defined by G.S. 110-105.3, or has died as the result of maltreatment occurring in a child care facility, shall report the case of that child to
the Department. The report may be made orally, by telephone, or in writing. The report shall include information as is known to the person making the report, including (i) the name and address of the child care facility where the child was allegedly maltreated, (ii) the name and address of the child's parent, guardian, or caretaker, (iii) the age of the child, (iv) the present whereabouts of the child if not at the home address, (v) the nature and extent of any injury or condition resulting from maltreatment, and (vi) any other information the person making the report believes might assist in the investigation of the report. If the report is made orally or by telephone, the person making the report shall give the person's name, address, and telephone number. Refusal of the person making the report to give a name shall not preclude the Department's assessment of the alleged maltreatment.

(b) Upon receipt of any report of maltreatment involving sexual abuse of the child in a child care facility, the Department shall notify the State Bureau of Investigation within 24 hours or on the next workday. If sexual abuse in a child care facility is not alleged in the initial report, but during the course of the assessment there is reason to suspect that sexual abuse has occurred, the Department shall immediately notify the State Bureau of Investigation. Upon notification that sexual abuse may have occurred in a child care facility, the State Bureau of Investigation may form a task force to investigate the report.

§ 115C-400. School personnel to report child abuse.

Any person who has cause to suspect child abuse or neglect has a duty to report the case of the child to the Director of Social Services of the county, as provided in Article 3 of Chapter 7B of the General Statutes.
§ 50-25.1-03. Persons required and permitted to report - To whom reported.
N.D. Cent. Code § 50-25.1-03

1. Any dentist; optometrist; dental hygienist; medical examiner or coroner; tier 1 mental health professional, tier 2 mental health professional, tier 3 mental health professional, or tier 4 mental health professional as defined under section 25-01-01; or any other medical or mental health professional, religious practitioner of the healing arts, schoolteacher or administrator, school counselor, child care worker, foster parent, police or law enforcement officer, juvenile court personnel, probation officer, division of juvenile services employee, or member of the clergy having knowledge of or reasonable cause to suspect a child is abused or neglected, or has died as a result of abuse or neglect, shall report the circumstances to the department if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity. A member of the clergy, however, is not required to report such circumstances if the knowledge or suspicion is derived from information received in the capacity of spiritual adviser.

2. Any person having reasonable cause to suspect a child is abused or neglected, or has died as a result of abuse or neglect, may report such circumstances to the department.

3. A person having knowledge of or reasonable cause to suspect a child is abused or neglected, based on images of sexual conduct by a child discovered on a workplace computer, shall report the circumstances to the department.

§ 50-25.1-03.1. Photographs - X-rays - Medical tests.
N.D. Cent. Code § 50-25.1-03.1

Any person or official required to report under this chapter may cause to be taken color photographs of the areas of trauma visible on a child who the person or official has knowledge or reasonable cause to suspect is an abused or neglected child and, if indicated by medical consultation, cause to be performed imaging studies, laboratory tests, colposcopies, and other medical tests of the child without the consent of the child's parents or guardian. All photographs and other visual images taken pursuant to this section must be taken by law enforcement officials, physicians, or medical facility professionals upon the request of any person or official required to report under this chapter. Photographs and visual images, or copies of them, must be sent to the department or the department's designee at the time the initial report of child abuse or neglect is made or as soon thereafter as possible.

N.D. Cent. Code § 50-25.1-04

All persons mandated or permitted to report cases of known or suspected child abuse or neglect shall immediately cause oral or written reports to be made to the department or the department's designee. Oral reports must be followed by written reports within forty-eight hours if so requested by the department or the department's designee. A requested written report must include information specifically sought by the department if the reporter possesses or has reasonable access to that information. Reports involving known or suspected institutional child abuse or neglect must be made and received in the same manner as all other reports made under this chapter.

N.D. Cent. Code § 50-25.1-09
Any person, other than the alleged violator, participating in good faith in the making of a report, assisting in an investigation, assisting in an assessment, assisting in an alternative response assessment, furnishing information, or in providing protective services under this chapter or who is a member of the child fatality review panel, is immune from any liability, civil or criminal, except for criminal liability as provided by section 50-25.1-13, that otherwise might result from reporting the alleged case of abuse, neglect, or death resulting from child abuse or neglect. For the purpose of any proceeding, civil or criminal, the good faith of any person required to report cases of child abuse, neglect, or death resulting from abuse or neglect must be presumed.

§ 50-25.1-09.1. Employer retaliation prohibited.
N.D. Cent. Code § 50-25.1-09.1

1. An employer who retaliates against an employee solely because the employee in good faith reported having reasonable cause to suspect that a child was abused or neglected, or died as a result of abuse or neglect, or because the employee is a child with respect to whom a report was made, is guilty of a class B misdemeanor. It is a defense to any charge brought under this section that the presumption of good faith, described in section 50-25.1-09, has been rebutted.

2. The employer of a person required or permitted to report pursuant to section 50-25.1-03 who retaliates against the person because of a report of abuse or neglect, or a report of a death resulting from child abuse or neglect, is liable to that person in a civil action for all damages, including exemplary damages, costs of the litigation, and reasonable attorney's fees.

3. There is a rebuttable presumption that any adverse action within ninety days of a report is retaliatory. For purposes of this subsection, an “adverse action” is action taken by an employer against the person making the report or the child with respect to whom a report was made, including:
   a. Discharge, suspension, termination, or transfer from any facility, institution, school, agency, or other place of employment;
   b. Discharge from or termination of employment;
   c. Demotion or reduction in remuneration for services; or
   d. Restriction or prohibition of access to any facility, institution, school, agency, or other place of employment or persons affiliated with it.

§ 50-25.1-10. Abrogation of privileged communications.
N.D. Cent. Code § 50-25.1-10

Any privilege of communication between husband and wife or between any professional person and the person’s patient or client, except between attorney and client, is abrogated and does not constitute grounds for preventing a report to be made or for excluding evidence in any proceeding regarding child abuse, neglect, or death resulting from abuse or neglect resulting from a report made under this chapter.

N.D. Cent. Code § 50-25.1-11

1. A report made under this chapter, as well as any other information obtained, is confidential and must be made available to:
   a. A physician who has before the physician a child whom the physician reasonably suspects may have been abused or neglected.
   b. A person who is authorized to place a child in protective custody and has before the person a child whom the person reasonably suspects may have been abused or neglected and the person requires the information to
determine whether to place the child in protective custody.

c. Authorized staff of the department and its authorized agents, children's
advocacy centers, and appropriate state and local child protection team
members, and citizen review committee members.

d. Any person who is the subject of the report; provided, however, that the
identity of persons reporting or supplying information under this chapter
is protected until the information is needed for use in an administrative
proceeding arising out of the report.

e. Public officials and their authorized agents who require the information in
connection with the discharge of their official duties.

f. A court, including an administrative hearing office, whenever the court
determines that the information is necessary for the determination of an
issue before the court.

g. A person engaged in a bona fide research purpose approved by the
department's institutional review board; provided, however, that no
individually identifiable information as defined in section 50-06-15 is made
available to the researcher unless the information is absolutely essential to
the research purpose and the department gives prior approval.

h. A person who is identified in subsection 1 of section 50-25.1-03, and who
has made a report of suspected child abuse or neglect, if the child is likely
to or continues to come before the reporter in the reporter's official or
professional capacity.

i. A parent or a legally appointed guardian of the child identified in the report
as suspected of being, or having been, abused or neglected, provided the
identity of persons making the report or supplying information under this
chapter is protected. Unless the information is confidential under section
44-04-18.7, when a decision is made under section 50-25.1-05.1 that services
are required to provide for the protection and treatment of an abused or
neglected child, the department shall make a good-faith effort to provide
written notice of the decision to persons identified in this subsection. The
department shall consider any known domestic violence when providing
notification under this section.

2. The department shall notify the parent or legally appointed guardian of a child
receiving early childhood services under chapter 50-11.1 of the name of the subject
and provide a summary of the facts and the results of an assessment conducted
under this chapter if the report made under this chapter involves the owner,
operator, staff member, or household member of the early childhood program,
the holder of a self-declaration or a household member of the holder of a self-
declaration, or the in-home provider or a household member of the in-home
provider, who is providing care to the child.

§ 50-25.1-13. Penalty for failure to report--Penalty and civil liability for
false reports.


Any person required by this chapter to report or to supply information concerning
a case of known or suspected child abuse, neglect, or death resulting from abuse or
neglect who willfully, as defined in section 12.1-02-02, fails to do so is guilty of a class
B misdemeanor. Any person who willfully, as defined in section 12.1-02-02, makes a
false report, or provides false information which causes a report to be made, under
this chapter is guilty of a class B misdemeanor unless the false report is made to a
law enforcement official, in which case the person who causes the false report to be
made is guilty of a class A misdemeanor. A person who willfully makes a false report,
or willfully provides false information that causes a report to be made, under this
chapter is also liable in a civil action for all damages suffered by the person reported,
including exemplary damages.
N.D. Cent. Code § 50-25.1-14

Any person who permits or encourages the unauthorized disclosure of reports made or confidential information obtained under the provisions of this chapter is guilty of a class B misdemeanor.

N.D. Cent. Code § 50-25.1-26

1. An individual required to report under section 50-25.1-03 who has knowledge of or reasonable cause to suspect that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy shall report the circumstances to the department if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity.

2. Any individual may make a voluntary report if the individual has knowledge of or reasonable cause to suspect that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy.

3. If a report alleges a pregnant woman's use of a controlled substance for a nonmedical purpose, the department or its designee shall immediately initiate an appropriate assessment and offer services indicated under the circumstances. Services offered may include a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, or a referral for prenatal care. The department or its designee may also take any appropriate action under chapter 25-03.1.

4. A report and assessment under this section is not required if the pregnant woman voluntarily enters treatment in a licensed treatment program. If the pregnant woman does not complete voluntary treatment or fails to follow treatment recommendations, an individual required to report under section 50-25.1-03 who has knowledge of the failure to complete voluntary treatment or failure to follow treatment recommendations shall make a report as required by this section.

5. A report under this section must be made as described in section 50-25.1-04 and must be sufficient to identify the woman, the nature and extent of use, if known, and the name and address of the individual making the report.

N.D. Cent. Code § 50-25.1-17

1. If the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose, upon the consent of the pregnant woman, or without consent if a specimen is otherwise available, a physician shall administer a toxicology test to a pregnant woman under the physician's care or to a woman under the physician's care within eight hours after delivery to determine whether there is evidence that she has ingested a controlled substance. If the test results are positive, the physician shall report the results under section 50-25.1-03.1. A negative test result or the pregnant woman's refusal to consent to a test does not eliminate the obligation to report under section 50-25.1-03 if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

2. If a physician has reason to believe based on a medical assessment of the mother
or the infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy, the physician shall administer, without the consent of the child's parents or guardian, to the newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance. If the test results are positive, the physician shall report the results as neglect under section 50-25.1-03. A negative test result does not eliminate the obligation to report under section 50-25.1-03 if other medical evidence of prenatal exposure to a controlled substance is present.

3. A physician or any other medical personnel administering a toxicology test to determine the presence of a controlled substance in a pregnant woman, in a woman within eight hours after delivery, or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test if the physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with an established protocol and reasonable medical practice. A physician or any other medical personnel who determines in good faith not to administer a toxicology test under this section is immune from liability for not administering the test.

N.D. Cent. Code § 50-25.1-18

1. An individual required to report under section 50-25.1-03 who has knowledge of or reasonable cause to suspect that a woman is pregnant and has abused alcohol after the woman knows of the pregnancy may:
   a. Arrange for a chemical dependency assessment conducted by a licensed treatment program and confirm that the recommendations indicated by the assessment are followed; or
   b. Immediately report the circumstances to the department if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity.

2. An individual may make a voluntary report if the individual has knowledge of or reasonable cause to suspect that a woman is pregnant and has abused alcohol during the pregnancy.

3. If the woman is referred for a chemical dependency assessment under subdivision a of subsection 1 and fails to obtain an assessment or refuses to comply with the recommendations of the assessment, an individual required to report under section 50-25.1-03 who has knowledge of the failure to obtain the assessment or refusal to comply with recommendations of the assessment shall make a report to the department.

4. If a report alleges a pregnant woman has abused alcohol, the department or its designee shall immediately initiate an appropriate assessment and offer services indicated under the circumstances. Services offered may include a referral for chemical dependency assessment, a referral for chemical dependency treatment, if recommended, or a referral for prenatal care. The department or its designee may also take any appropriate action under chapter 25-03.1.

5. A report and assessment under this section is not required if the pregnant woman voluntarily enters treatment in a licensed treatment program. If the pregnant woman does not complete voluntary treatment or fails to follow treatment recommendations, an individual required to report under section 50-25.1-03 who has knowledge of the failure to complete voluntary treatment or failure to follow treatment recommendations shall make a report as required by this section.
6. A report under this section must be made as described in section 50-25.1-04 and must be sufficient to identify the woman, the nature and extent of the abuse of alcohol, any health risk associated with the abuse of alcohol, and the name and address of the individual making the report.
§ 2151.421. Persons required to report injury or neglect; procedures on receipt of report.

Ohio Rev. Code Ann. § 2151.421

(A) (1) (a) No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age, or a person, under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; health care professional; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp, child day camp, or private, nonprofit therapeutic wilderness camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; agent of a county humane society; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion; employee of a county department of job and family services who is a professional and who works with children and families; superintendent or regional administrator employed by the department of youth services; superintendent, board member, or employee of a county board of developmental disabilities; investigative agent contracted with by a county board of developmental disabilities; employee of the department of developmental disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; third party employed by a public children services agency to assist in providing child or family related services; court appointed special advocate; or guardian ad litem.

(c) If two or more health care professionals, after providing health care services to a child, determine or suspect that the child has been or is being abused or neglected, the health care professionals may designate one of the health care professionals to report the abuse or neglect. A single report made under this division shall meet the reporting requirements of division (A)(1) of this section.

(2) Except as provided in division (A)(3) of this section, an attorney or a physician is not required to make a report pursuant to division (A)(1) of
this section concerning any communication the attorney or physician
receives from a client or patient in an attorney-client or physician-patient
relationship, if, in accordance with division (A) or (B) of section 2317.02 of the
Revised Code, the attorney or physician could not testify with respect to that
communication in a civil or criminal proceeding.
(3) The client or patient in an attorney-client or physician-patient
relationship described in division (A)(2) of this section is deemed to have waived any
testimonial privilege under division (A) or (B) of section 2317.02 of the
Revised Code with respect to any communication the attorney or physician
receives from the client or patient in that attorney-client or physician-patient
relationship, and the attorney or physician shall make a report pursuant to
division (A)(1) of this section with respect to that communication, if all of the
following apply:

(a) The client or patient, at the time of the communication, is a child
under eighteen years of age or is a person under twenty-one years
of age with a developmental disability or physical impairment.
(b) The attorney or physician knows, or has reasonable cause to
suspect based on facts that would cause a reasonable person in
similar position to suspect that the client or patient has suffered
or faces a threat of suffering any physical or mental wound, injury,
disability, or condition of a nature that reasonably indicates abuse
or neglect of the client or patient.
(c) The abuse or neglect does not arise out of the client's or patient's
attempt to have an abortion without the notification of her parents,
guardian, or custodian in accordance with section 2151.85 of the
Revised Code.

(4)

(a) No cleric and no person, other than a volunteer, designated by
any church, religious society, or faith acting as a leader, official, or
delegate on behalf of the church, religious society, or faith who
is acting in an official or professional capacity, who knows, or has
reasonable cause to believe based on facts that would cause a
reasonable person in a similar position to believe, that a child under
eighteen years of age, or a person under twenty-one years of age
with a developmental disability or physical impairment, has suffered
or faces a threat of suffering any physical or mental wound, injury,
disability, or condition of a nature that reasonably indicates abuse
or neglect of the child, and who knows, or has reasonable cause to
believe based on facts that would cause a reasonable person in a
similar position to believe, that another cleric or another person,
other than a volunteer, designated by a church, religious society, or
faith acting as a leader, official, or delegate on behalf of the church,
religious society, or faith caused, or poses the threat of causing,
the wound, injury, disability, or condition that reasonably indicates
abuse or neglect shall fail to immediately report that knowledge
or reasonable cause to believe to the entity or persons specified in
this division. Except as provided in division 5120.173 of the Revised
Code, the person making the report shall make it to the public
children services agency or a municipal or county peace officer
in the county in which the child resides or in which the abuse or
neglect is occurring or has occurred. In the circumstances described
in section 5120.173 of the Revised Code, the person making the
report shall make it to the entity specified in that section.
(b) Except as provided in division (A)(4)(c) of this section, a cleric is
not required to make a report pursuant to division (A)(4)(a) of this
section concerning any communication the cleric receives from
a penitent in a cleric-penitent relationship, if, in accordance with
division (C) of section 2317.02 of the Revised Code, the cleric could
not testify with respect to that communication in a civil or criminal proceeding.

(c) The penitent in a cleric-penitent relationship described in division (A)(4)(b) of this section is deemed to have waived any testimonial privilege under division (C) of section 2317.02 of the Revised Code with respect to any communication the cleric receives from the penitent in that cleric-penitent relationship, and the cleric shall make a report pursuant to division (A)(4)(a) of this section with respect to that communication, if all of the following apply:

(i) The penitent, at the time of the communication, is a child under eighteen years of age or is a person under twenty-one years of age with a developmental disability or physical impairment.

(ii) The cleric knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, as a result of the communication or any observations made during that communication, the penitent has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the penitent.

(iii) The abuse or neglect does not arise out of the penitent's attempt to have an abortion performed upon a child under eighteen years of age or upon a person under twenty-one years of age with a developmental disability or physical impairment without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(d) Divisions (A)(4)(a) and (c) of this section do not apply in a cleric-penitent relationship when the disclosure of any communication the cleric receives from the penitent is in violation of the sacred trust.

(e) As used in divisions (A)(1) and (4) of this section, “cleric” and “sacred trust” have the same meanings as in section 2317.02 of the Revised Code.

(B) Anyone who knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar circumstances to suspect, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably indicates abuse or neglect of the child may report or cause reports to be made of that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the public children services agency or to a municipal or county peace officer. In the circumstances described in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the entity specified in that section.

(C) Any report made pursuant to division (A) or (B) of this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

(1) The names and addresses of the child and the child's parents or the person or persons having custody of the child, if known;

(2) The child's age and the nature and extent of the child's injuries, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known
(D) Any person, who is required by division (A) of this section to report child abuse or child neglect that is known or reasonably suspected or believed to have occurred, may take or cause to be taken color photographs of areas of trauma visible on a child and, if medically necessary for the purpose of diagnosing or treating injuries that are suspected to have occurred as a result of child abuse or child neglect, perform or cause to be performed radiological examinations and any other medical examinations of, and tests or procedures on, the child.

(2) The results and any available reports of examinations, tests, or procedures made under division (D)(1) of this section shall be included in a report made pursuant to division (A) of this section. Any additional reports of examinations, tests, or procedures that become available shall be provided to the public children services agency, upon request.

(3) If a health care professional provides health care services in a hospital, children's advocacy center, or emergency medical facility to a child about whom a report has been made under division (A) of this section, the health care professional may take any steps that are reasonably necessary for the release or discharge of the child to an appropriate environment. Before the child's release or discharge, the health care professional may obtain information, or consider information obtained, from other entities or individuals that have knowledge about the child. Nothing in division (D)(3) of this section shall be construed to alter the responsibilities of any person under sections 2151.27 and 2151.31 of the Revised Code.

(4) A health care professional may conduct medical examinations, tests, or procedures on the siblings of a child about whom a report has been made under division (A) of this section and on other children who reside in the same home as the child, if the professional determines that the examinations, tests, or procedures are medically necessary to diagnose or treat the siblings or other children in order to determine whether reports under division (A) of this section are warranted with respect to such siblings or other children. The results of the examinations, tests, or procedures on the siblings and other children may be included in a report made pursuant to division (A) of this section.

(5) Medical examinations, tests, or procedures conducted under divisions (D) (1) and (4) of this section and decisions regarding the release or discharge of a child under division (D)(3) of this section do not constitute a law enforcement investigation or activity.

(E) When a municipal or county peace officer receives a report concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child, upon receipt of the report, the municipal or county peace officer who receives the report shall refer the report to the appropriate public children services agency.

(2) When a public children services agency receives a report pursuant to this division or division (A) or (B) of this section, upon receipt of the report, the public children services agency shall do both of the following:

(a) Comply with section 2151.422 of the Revised Code;
(b) If the county served by the agency is also served by a children's advocacy center and the report alleges sexual abuse of a child or another type of abuse of a child that is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, comply regarding the report with the protocol and procedures for referrals and investigations, with the coordinating activities, and with the authority or responsibility for performing or providing functions, activities, and services stipulated in the interagency agreement entered into under section 2151.428 of the Revised Code relative to that center.

(F) No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code.

(G) (1) Except as provided in section 2151.422 of the Revised Code or in an interagency agreement entered into under section 2151.428 of the Revised Code that applies to the particular report, the public children services agency shall investigate, within twenty-four hours, each report of child abuse or child neglect that is known or reasonably suspected or believed to have occurred and of a threat of child abuse or child neglect that is known or reasonably suspected or believed to exist that is referred to it under this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the memorandum of understanding prepared under division (K) of this section. A representative of the public children services agency shall, at the time of initial contact with the person subject to the investigation, inform the person of the specific complaints or allegations made against the person. The information shall be given in a manner that is consistent with division (I)(1) of this section and protects the rights of the person making the report under this section. A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The public children services agency shall report each case to the uniform statewide automated child welfare information system that the department of job and family services shall maintain in accordance with section 5101.13 of the Revised Code. The public children services agency shall submit a report of its investigation, in writing, to the law enforcement agency.

(2) The public children services agency shall make any recommendations to the county prosecuting attorney or city director of law that it considers necessary to protect any children that are brought to its attention.

(H) (1) (a) Except as provided in divisions (H)(1)(b) and (I)(3) of this section, any person, health care professional, hospital, institution, school,
health department, or agency shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of any of the following:

(i) Participating in the making of reports pursuant to division (A) of this section or in the making of reports in good faith, pursuant to division (B) of this section;
(ii) Participating in medical examinations, tests, or procedures under division (D) of this section;
(iii) Providing information used in a report made pursuant to division (A) of this section or providing information in good faith used in a report made pursuant to division (B) of this section;
(iv) Participating in a judicial proceeding resulting from a report made pursuant to division (A) of this section or participating in good faith in a proceeding resulting from a report made pursuant to division (B) of this section.

(b) Immunity under division (H)(1)(a)(ii) of this section shall not apply when a health care provider has deviated from the standard of care applicable to the provider’s profession.

(c) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding a child’s injuries, abuse, or neglect, or the cause of the injuries, abuse, or neglect in any judicial proceeding resulting from a report submitted pursuant to this section.

(2) In any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of a report under this section was not in good faith or participation in a judicial proceeding resulting from a report made under this section was not in good faith, the court shall award the prevailing party reasonable attorney’s fees and costs and, if a civil action or proceeding is voluntarily dismissed, may award reasonable attorney’s fees and costs to the party against whom the civil action or proceeding is brought.

(I)

(1) Except as provided in divisions (I)(4) and (O) of this section, a report made under this section is confidential. The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. Nothing in this division shall preclude the use of reports of other incidents of known or suspected abuse or neglect in a civil action or proceeding brought pursuant to division (N) of this section against a person who is alleged to have violated division (A)(1) of this section, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker of the report is not the defendant or an agent or employee of the defendant, has been redacted. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

(2)

(a) Except as provided in division (I)(2)(b) of this section, no person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section.
(b) A health care professional that obtains the same information contained in a report made under this section from a source other than the report may disseminate the information, if its dissemination is otherwise permitted by law.
(3) A person who knowingly makes or causes another person to make a false report under division (B) of this section that alleges that any person has committed an act or omission that resulted in a child being an abused child or a neglected child is guilty of a violation of section 2921.14 of the Revised Code.

(4) If a report is made pursuant to division (A) or (B) of this section and the child who is the subject of the report dies for any reason at any time after the report is made, but before the child attains eighteen years of age, the public children services agency or municipal or county peace officer to which the report was made or referred, on the request of the child fatality review board or the director of health pursuant to guidelines established under section 3701.70 of the Revised Code, shall submit a summary sheet of information providing a summary of the report to the review board of the county in which the deceased child resided at the time of death or to the director. On the request of the review board or director, the agency or peace officer may, at its discretion, make the report available to the review board or director. If the county served by the public children services agency is also served by a children's advocacy center and the report of alleged sexual abuse of a child or another type of abuse of a child is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, the agency or center shall perform the duties and functions specified in this division in accordance with the interagency agreement entered into under section 2151.428 of the Revised Code relative to that advocacy center.

(5) A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section, including a report alleging sexual abuse of a child or another type of abuse of a child referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, in writing of the disposition of the investigation. The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

(j) Any report that is required by this section, other than a report that is made to the state highway patrol as described in section 5120.173 of the Revised Code, shall result in protective services and emergency supportive services being made available by the public children services agency on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, to enhance their welfare, and, whenever possible, to preserve the family unit intact. The agency required to provide the services shall be the agency conducting the investigation of the report pursuant to section 2151.422 of the Revised Code.

(K) (1) Each public children services agency shall prepare a memorandum of understanding that is signed by all of the following:
   (a) If there is only one juvenile judge in the county, the juvenile judge of the county or the juvenile judge's representative;
   (b) If there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative;
   (c) The county peace officer;
   (d) All chief municipal peace officers within the county;
   (e) Other law enforcement officers handling child abuse and neglect cases in the county;
   (f) The prosecuting attorney of the county;
(g) If the public children services agency is not the county department of job and family services, the county department of job and family services;
(h) The county humane society;
(i) If the public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center established by the memorandum.

(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person.

(3) A memorandum of understanding shall include all of the following:
   (a) The roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect;
   (b) Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or neglected.

(4) If a public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, the agency shall incorporate the contents of that memorandum in the memorandum prepared pursuant to this section.

(5) The clerk of the court of common pleas in the county may sign the memorandum of understanding prepared under division (K)(1) of this section. If the clerk signs the memorandum of understanding, the clerk shall execute all relevant responsibilities as required of officials specified in the memorandum.

(L)(1) Except as provided in division (L)(4) or (5) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report, or of the children's advocacy center that is referred the report if the report is referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, to be provided with the following information:
   (a) Whether the agency or center has initiated an investigation of the report;
   (b) Whether the agency or center is continuing to investigate the
report;
(c) Whether the agency or center is otherwise involved with the child who is the subject of the report;
(d) The general status of the health and safety of the child who is the subject of the report;
(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2) A person may request the information specified in division (L)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report. When a municipal or county peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (L)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report. Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (L)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.

(3) A request made pursuant to division (L)(1) of this section is not a substitute for any report required to be made pursuant to division (A) of this section.

(4) If an agency other than the agency that received or was referred the report is conducting the investigation of the report pursuant to section 2151.422 of the Revised Code, the agency conducting the investigation shall comply with the requirements of division (L) of this section.

(5) A health care professional who made a report under division (A) of this section, or on whose behalf such a report was made as provided in division (A)(1)(c) of this section, may authorize a person to obtain the information described in division (L)(1) of this section if the person requesting the information is associated with or acting on behalf of the health care professional who provided health care services to the child about whom the report was made.

(M) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The department of job and family services may enter into a plan of cooperation with any other governmental entity to aid in ensuring that children are protected from abuse and neglect. The department shall make recommendations to the attorney general that the department determines are necessary to protect children from child abuse and child neglect.

(N) Whoever violates division (A) of this section is liable for compensatory and exemplary damages to the child who would have been the subject of the report that was not made. A person who brings a civil action or proceeding pursuant to this division against a person who is alleged to have violated division (A)(1) of this section may use in the action or proceeding reports of other incidents of known or suspected abuse or neglect, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker is not the defendant or an agent or employee of the defendant, has been redacted.

(O)
(1) As used in this division:
   (a) “Out-of-home care” includes a nonchartered nonpublic school if the alleged child abuse or child neglect, or alleged threat of child abuse or child neglect, described in a report received by a public children services agency allegedly occurred in or involved the nonchartered nonpublic school and the alleged perpetrator named in the report holds a certificate, permit, or license issued by the state board of education under section 3301.071 or Chapter 3319. of the Revised Code.
   (b) “Administrator, director, or other chief administrative officer” means the superintendent of the school district if the out-of-home care entity subject to a report made pursuant to this section is a school operated by the district.

(2) No later than the end of the day following the day on which a public children services agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The agency shall not provide witness statements or police or other investigative reports.

(3) No later than three days after the day on which a public children services agency that conducted the investigation as determined pursuant to section 2151.422 of the Revised Code makes a disposition of an investigation involving a report of alleged child abuse or neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall send written notice of the disposition of the investigation to the administrator, director, or other chief administrative officer and the owner or governing board of the out-of-home care entity. The agency shall not provide witness statements or police or other investigative reports.

(P) As used in this section:
   (1) “Children’s advocacy center” and “sexual abuse of a child” have the same meanings as in section 2151.425 of the Revised Code.
   (2) “Health care professional” means an individual who provides health-related services including a physician, hospital intern or resident, dentist, podiatrist, registered nurse, licensed practical nurse, visiting nurse, licensed psychologist, speech pathologist, audiologist, person engaged in social work or the practice of professional counseling, and employee of a home health agency. “Health care professional” does not include a practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, licensed school psychologist, independent marriage and family therapist or marriage and family therapist, or coroner.
   (3) “Investigation” means the public children services agency’s response to an accepted report of child abuse or neglect through either an alternative response or a traditional response.
§ 2151.99. Penalty.
Ohio Rev. Code Ann. § 2151.99

(A)

(1) Except as otherwise provided in division (A)(2) of this section, whoever violates division (D)(2) or (3) of section 2151.313 or division (A)(4) or (I)(2) of section 2151.421 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(2) Whoever violates division (A)(4) of section 2151.421 of the Revised Code knowing that a child has been abused or neglected and knowing that the person who committed the abuse or neglect was a cleric or another person, other than a volunteer, designated by a church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith, is guilty of a misdemeanor of the first degree if the person who violates division (A)(4) of this section and the person who committed the abuse or neglect belong to the same church, religious society, or faith.

(B) Whoever violates division (D)(1) of section 2151.313 of the Revised Code is guilty of a minor misdemeanor.

(C) Whoever violates division (A)(1) of section 2151.421 of the Revised Code shall be punished as follows:

(1) Except as otherwise provided in division (C)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree.

(2) The offender is guilty of a misdemeanor of the first degree if the child who is the subject of the required report that the offender fails to make suffers or faces the threat of suffering the physical or mental wound, injury, disability, or condition that would be the basis of the required report when the child is under the direct care or supervision of the offender who is then acting in the offender's official or professional capacity or when the child is under the direct care or supervision of another person over whom the offender while acting in the offender's official or professional capacity has supervisory control.

§ 2317.02. Privileged communications.
Ohio Rev. Code Ann. § 2317.02

The following persons shall not testify in certain respects:

(A)

(1) An attorney, concerning a communication made to the attorney by a client in that relation or concerning the attorney's advice to a client, except that the attorney may testify by express consent of the client or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of the deceased client. However, if the client voluntarily reveals the substance of attorney-client communications in a nonprivileged context or is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the attorney may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply concerning either of the following:

(a) A communication between a client in a capital case, as defined in section 2901.02 of the Revised Code, and the client's attorney if the communication is relevant to a subsequent ineffective assistance of counsel claim by the client alleging that the attorney did not effectively represent the client in the case;

(b) A communication between a client who has since died and
the deceased client’s attorney if the communication is relevant to a dispute between parties who claim through that deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased client when the deceased client executed a document that is the basis of the dispute or whether the deceased client was a victim of fraud, undue influence, or duress when the deceased client executed a document that is the basis of the dispute.

(2) An attorney, concerning a communication made to the attorney by a client in that relationship or the attorney’s advice to a client, except that if the client is an insurance company, the attorney may be compelled to testify, subject to an in camera inspection by a court, about communications made by the client to the attorney or by the attorney to the client that are related to the attorney’s aiding or furthering an ongoing or future commission of bad faith by the client, if the party seeking disclosure of the communications has made a prima-facie showing of bad faith, fraud, or criminal misconduct by the client.

(B)

(1) A physician, advanced practice registered nurse, or dentist concerning a communication made to the physician, advanced practice registered nurse, or dentist by a patient in that relation or the advice of a physician, advanced practice registered nurse, or dentist given to a patient, except as otherwise provided in this division, division (B)(2), and division (B)(3) of this section, and except that, if the patient is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the physician or advanced practice registered nurse may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply, and a physician, advanced practice registered nurse, or dentist may testify or may be compelled to testify, in any of the following circumstances:

(a) In any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(i) If the patient or the guardian or other legal representative of the patient gives express consent;
(ii) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient’s estate gives express consent;
(iii) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient’s guardian or other legal representative.

(b) In any civil action concerning court-ordered treatment or services received by a patient, if the court-ordered treatment or services were ordered as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(c) In any criminal action concerning any test or the results of any test that determines the presence or concentration of alcohol, a
drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the patient's whole blood, blood serum or plasma, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.

(d) In any criminal action against a physician, advanced practice registered nurse, or dentist. In such an action, the testimonial privilege established under this division does not prohibit the admission into evidence, in accordance with the Rules of Evidence, of a patient's medical or dental records or other communications between a patient and the physician, advanced practice registered nurse, or dentist that are related to the action and obtained by subpoena, search warrant, or other lawful means. A court that permits or compels a physician, advanced practice registered nurse, or dentist to testify in such an action or permits the introduction into evidence of patient records or other communications in such an action shall require that appropriate measures be taken to ensure that the confidentiality of any patient named or otherwise identified in the records is maintained. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(e)

(i) If the communication was between a patient who has since died and the deceased patient's physician, advanced practice registered nurse, or dentist, the communication is relevant to a dispute between parties who claim through that deceased patient, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased patient when the deceased patient executed a document that is the basis of the dispute or whether the deceased patient was a victim of fraud, undue influence, or duress when the deceased patient executed a document that is the basis of the dispute.

(ii) If neither the spouse of a patient nor the executor or administrator of that patient's estate gives consent under division (B)(1)(a)(ii) of this section, testimony or the disclosure of the patient's medical records by a physician, advanced practice registered nurse, dentist, or other health care provider under division (B)(1)(e)(i) of this section is a permitted use or disclosure of protected health information, as defined in 45 C.F.R. 160.103, and an authorization or opportunity to be heard shall not be required.

(iii) Division (B)(1)(e)(i) of this section does not require a mental health professional to disclose psychotherapy notes, as defined in 45 C.F.R. 164.501.

(iv) An interested person who objects to testimony or disclosure under division (B)(1)(e)(i) of this section may seek a protective order pursuant to Civil Rule 26.

(v) A person to whom protected health information is disclosed under division (B)(1)(e)(i) of this section shall not use or disclose the protected health information for any purpose other than the litigation or proceeding for which the information was requested and shall return the protected health information to the covered entity or destroy the protected health information, including all copies made, at the conclusion of the litigation or proceeding.
(2) (a) If any law enforcement officer submits a written statement to a health care provider that states that an official criminal investigation has begun regarding a specified person or that a criminal action or proceeding has been commenced against a specified person, that requests the provider to supply to the officer copies of any records the provider possesses that pertain to any test or the results of any test administered to the specified person to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at any time relevant to the criminal offense in question, and that conforms to section 2317.022 of the Revised Code, the provider, except to the extent specifically prohibited by any law of this state or of the United States, shall supply to the officer a copy of any of the requested records the provider possesses. If the health care provider does not possess any of the requested records, the provider shall give the officer a written statement that indicates that the provider does not possess any of the requested records. (b) If a health care provider possesses any records of the type described in division (B)(2)(a) of this section regarding the person in question at any time relevant to the criminal offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of records submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test to which the records pertain, the person under whose supervision the test was administered, the custodian of the records, the person who made the records, or the person under whose supervision the records were made.

(3) (a) If the testimonial privilege described in division (B)(1) of this section does not apply as provided in division (B)(1)(a)(iii) of this section, a physician, advanced practice registered nurse, or dentist may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the physician, advanced practice registered nurse, or dentist by the patient in question in that relation, or the advice of the physician, advanced practice registered nurse, or dentist given to the patient in question that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code. (b) If the testimonial privilege described in division (B)(1) of this section does not apply to a physician, advanced practice registered nurse, or dentist as provided in division (B)(1)(c) of this section, the physician, advanced practice registered nurse, or dentist, in lieu of personally testifying as to the results of the test in question, may submit a certified copy of those results, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of results submitted in accordance with this division. Nothing in this division shall be construed to limit the right
of any party to call as a witness the person who administered the test in question, the person under whose supervision the test was administered, the custodian of the results of the test, the person who compiled the results, or the person under whose supervision the results were compiled.

(4) The testimonial privilege described in division (B)(1) of this section is not waived when a communication is made by a physician or advanced practice registered nurse to a pharmacist or when there is communication between a patient and a pharmacist in furtherance of the physician-patient or advanced practice registered nurse-patient relation.

(5)

(a) As used in divisions (B)(1) to (4) of this section, “communication” means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a physician, advanced practice registered nurse, or dentist to diagnose, treat, prescribe, or act for a patient. A "communication" may include, but is not limited to, any medical or dental, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(b) As used in division (B)(2) of this section, "health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

(c) As used in division (B)(5)(b) of this section:

(i) “Ambulatory care facility” means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. “Ambulatory health care facility” does not include the private office of a physician, advanced practice registered nurse, or dentist, whether the office is for an individual or group practice.

(ii) “Emergency facility” means a hospital emergency department or any other facility that provides emergency medical services.

(iii) “Health care practitioner” has the same meaning as in section 4769.01 of the Revised Code.

(iv) “Hospital” has the same meaning as in section 3727.01 of the Revised Code.

(v) “Long-term care facility” means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility, as defined in section 5165.01 of the Revised Code; a skilled nursing facility, as defined in section 5165.01 of the Revised Code; and an intermediate care facility for individuals with intellectual disabilities, as defined in section 5124.01 of the Revised Code.

(vi) “Pharmacy” has the same meaning as in section 4729.01 of the Revised Code.

(d) As used in divisions (B)(1) and (2) of this section, “drug of abuse” has the same meaning as in section 4506.01 of the Revised Code.

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of
medicine, doctors of osteopathic medicine, doctors of podiatry, advanced practice registered nurses, and dentists.

(7) Nothing in divisions (B)(1) to (6) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 of the Revised Code or the immunity from civil liability conferred by section 7305.33 of the Revised Code upon physicians or advanced practice registered nurses who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee in accordance with division (B) of that section. As used in division (B)(7) of this section, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code and "advanced practice registered nurse" has the same meaning as in section 4723.01of the Revised Code.

(C)

(1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional character. The cleric may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust and except that, if the person voluntarily testifies or is deemed by division (A)(4) (c) of section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the cleric may be compelled to testify on the same subject except when disclosure of the information is in violation of a sacred trust.

(2) As used in division (C) of this section:

(a) "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect.

(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, if both of the following apply:

(i) The confession or confidential communication was made directly to the cleric.

(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;

(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;

(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.

(G)
(1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, marriage and family therapist or independent marriage and family therapist, or registered under Chapter 4757. of the Revised Code as a social work assistant concerning a confidential communication received from a client in that relation or the person's advice to a client unless any of the following applies:

(a) The communication or advice indicates clear and present danger to the client or other persons. For the purposes of this division, cases in which there are indications of present or past child abuse or neglect of the client constitute a clear and present danger.

(b) The client gives express consent to the testimony.

(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent.

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship.

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.

(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(2) Nothing in division (G)(1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code.

(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of children, in any action or proceeding, other than a criminal, delinquency, child abuse, child neglect, or dependent child action or proceeding, that is brought by or against either parent who takes part in mediation in accordance with the order and that pertains to the mediation process, to any information discussed or presented in the mediation process, to the allocation of parental rights and responsibilities for the care of the parents' children, or to the awarding of parenting time rights in relation to their children;

(I) A communications assistant, acting within the scope of the communication assistant's authority, when providing telecommunications relay service pursuant to section 4931.06 of the Revised Code or Title II of the “Communications Act of 1934,” 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication made through a telecommunications relay service. Nothing in this section shall limit the obligation of a communications assistant to divulge information or testify when mandated by federal law or regulation or pursuant to subpoena in a criminal proceeding. Nothing in this section shall limit any immunity or privilege granted under federal law.
or regulation.

(J)

(1) A chiropractor in a civil proceeding concerning a communication made to the chiropractor by a patient in that relation or the chiropractor’s advice to a patient, except as otherwise provided in this division. The testimonial privilege established under this division does not apply, and a chiropractor may testify or may be compelled to testify, in any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(a) If the patient or the guardian or other legal representative of the patient gives express consent.

(b) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient’s estate gives express consent.

(c) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient’s guardian or other legal representative.

(2) If the testimonial privilege described in division (J)(1) of this section does not apply as provided in division (J)(1)(c) of this section, a chiropractor may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the chiropractor by the patient in question in that relation, or the chiropractor’s advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(3) The testimonial privilege established under this division does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding.

(4) As used in this division, “communication” means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a chiropractor to diagnose, treat, or act for a patient. A communication may include, but is not limited to, any chiropractic, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(K)

(1) Except as provided under division (K)(2) of this section, a critical incident stress management team member concerning a communication received from an individual who receives crisis response services from the team member, or the team member’s advice to the individual, during a debriefing session.

(2) The testimonial privilege established under division (K)(1) of this section does not apply if any of the following are true:

(a) The communication or advice indicates clear and present danger to the individual who receives crisis response services or to other persons. For purposes of this division, cases in which there are indications of present or past child abuse or neglect of the individual constitute a clear and present danger.

(b) The individual who received crisis response services gives express consent to the testimony.

(c) If the individual who received crisis response services is
deceased, the surviving spouse or the executor or administrator of the estate of the deceased individual gives express consent.

(d) The individual who received crisis response services voluntarily testifies, in which case the team member may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the individual who received crisis response services is not germane to the relationship between the individual and the team member.

(f) The communication or advice pertains or is related to any criminal act.

(3) As used in division (K) of this section:

(a) “Crisis response services” means consultation, risk assessment, referral, and on-site crisis intervention services provided by a critical incident stress management team to individuals affected by crisis or disaster.

(b) “Critical incident stress management team member” or “team member” means an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in the Ohio critical incident stress management network.

(c) “Debriefing session” means a session at which crisis response services are rendered by a critical incident stress management team member during or after a crisis or disaster.

(L)

(1) Subject to division (L)(2) of this section and except as provided in division (L)(3) of this section, an employee assistance professional, concerning a communication made to the employee assistance professional by a client in the employee assistance professional's official capacity as an employee assistance professional.

(2) Division (L)(1) of this section applies to an employee assistance professional who meets either or both of the following requirements:

(a) Is certified by the employee assistance certification commission to engage in the employee assistance profession;

(b) Has education, training, and experience in all of the following:

(i) Providing workplace-based services designed to address employer and employee productivity issues;

(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;

(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;

(iv) Selecting and evaluating available community resources;

(v) Making appropriate referrals;

(vi) Local and national employee assistance agreements;

(vii) Client confidentiality.

(3) Division (L)(1) of this section does not apply to any of the following:

(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;

(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a
crime or serious, harmful act;
(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;
(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered;
(e) A civil or criminal malpractice action brought against the employee assistance professional;
(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;
(g) When the testimonial privilege otherwise provided by division (L) (1) of this section is abrogated under law.

§ 2921.14. Making or causing false report of child abuse or neglect.
Ohio Rev. Code Ann. § 2921.14

(A) No person shall knowingly make or cause another person to make a false report under division (B) of section 2151.421 of the Revised Code alleging that any person has committed an act or omission that resulted in a child being an abused child as defined in section 2151.031 of the Revised Code or a neglected child as defined in section 2151.03 of the Revised Code.

(B) Whoever violates this section is guilty of making or causing a false report of child abuse or child neglect, a misdemeanor of the first degree.

Ohio Rev. Code Ann. § 5120.173

Any person who is required to report abuse or neglect of a child under eighteen years of age that is reasonably suspected or believed to have occurred or the threat of which is reasonably suspected or believed to exist pursuant to division (A) of section 2151.421 of the Revised Code, any person who is permitted to report or cause a report to be made of reasonably suspected abuse or neglect of a child under eighteen years of age pursuant to division (B) of that section, any person who is required to report suspected abuse or neglect of a person with a developmental disability pursuant to division (C) of section 5123.61 of the Revised Code, and any person who is permitted to report suspected abuse or neglect of a person with a developmental disability pursuant to division (F) of that section and who makes or causes the report to be made, shall direct that report to the state highway patrol if the child or the person with a developmental disability is an inmate in the custody of a state correctional institution. If the state highway patrol determines after receipt of the report that it is probable that abuse or neglect of the inmate occurred, the patrol shall report its findings to the department of rehabilitation and correction, to the court that sentenced the inmate for the offense for which the inmate is in the custody of the department, and to the chairperson and vice-chairperson of the correctional institution inspection committee established by section 103.71 of the Revised Code.

§ 5139.12. Reporting abuse of delinquent child.
Ohio Rev. Code Ann. § 5139.12

Any person who is required, pursuant to division (A) of section 2151.421 of the Revised Code, to report the person's knowledge of or reasonable cause to suspect abuse or neglect or threat of abuse or neglect of a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child
under twenty-one years of age or any person who is permitted, pursuant to division (B) of that section, to report, or cause such a report to be made and who makes or causes the report to be made, shall direct that report to the state highway patrol if the child is a delinquent child in the custody of an institution. If the state highway patrol determines after receipt of the report that there is probable cause that abuse or neglect or threat of abuse or neglect of the delinquent child occurred, the highway patrol shall report its findings to the department of youth services, to the court that ordered the disposition of the delinquent child for the act that would have been an offense if committed by an adult and for which the delinquent child is in the custody of the department, to the public children services agency in the county in which the child resides or in which the abuse or neglect or threat of abuse or neglect occurred, and to the chairperson and vice-chairperson of the correctional institution inspection committee established by section 103.71 of the Revised Code.

§ 5153.176. Reporting in public educational facility – duties; superintendent, director.
Ohio Rev. Code Ann. § 5153.176

As used in this section, “license” has the same meaning as in section 3319.31 of the Revised Code.

(A) Notwithstanding division (H)(1) of section 2151.421, section 5153.17, or any other section of the Revised Code pertaining to confidentiality, the director of a public children services agency shall promptly provide to the superintendent of public instruction information regarding the agency's investigation of a report of child abuse or neglect made pursuant to section 2151.421 of the Revised Code involving a person who holds a license issued by the state board of education where the agency has determined that child abuse or neglect occurred and that abuse or neglect is related to the person's duties and responsibilities under the license. The information provided by the director shall include the following:
   (1) A summary of the nature of the allegations contained in the report of which the person is the subject and the final disposition of the investigation conducted in response to that report or, if the investigation is not complete, the status of the investigation;
   (2) Upon written request of the superintendent of public instruction, the additional information described in division (C) of this section regarding the agency's investigation of the report, unless the prosecuting attorney of the county served by the agency determines that such information may not be released pursuant to division (B) of this section.

(B) Upon receipt of a written request from the superintendent of public instruction for the additional information described in division (C) of this section, the director shall determine if the prosecuting attorney of the county served by the public children services agency intends to prosecute the subject of the report based on the allegations contained in the report. If the prosecuting attorney intends to prosecute the subject of the report, the prosecuting attorney shall determine the information described in division (C) of this section that may be released, if any, and shall provide the director with written authorization to release the information so determined. The director shall provide the superintendent of public instruction with any information described in division (C) of this section that the prosecuting attorney determines may be released, but in no case shall the director provide any information that the prosecuting attorney determines shall not be released. If the prosecuting attorney does not intend to prosecute the subject of the report, the prosecuting attorney shall notify the director of that fact and the director shall provide all of the information described in division (C) of this section to the superintendent of public instruction.

(C) In accordance with division (B) of this section, the director shall provide

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information to the superintendent of public instruction regarding the public children
services agency's investigation of the report described in division (A) of this section,
including, but not limited to, the following:

(1) The following information about the alleged child victim of the abuse or
neglect:

(a) Full name;
(b) Date of birth;
(c) Address and telephone number;
(d) Grade level;
(e) Name and contact information of the child's parent, guardian, or
legal custodian;
(f) Name and contact information of any medical facility that
provided treatment to the child, if the child was injured in
connection with the abuse or neglect and if that information is
available;
(g) A summary of interviews with the child or, if an entity other
than the agency conducted the interviews, the contact information
for that entity. The summary shall include an accounting of the
facts and circumstances of the alleged abuse or neglect, including,
but not limited to, the time and place that the abuse or neglect
occurred.
(h) Copies of any written correspondence between the child and
the alleged perpetrator of the abuse or neglect that was used by the
agency to determine that abuse or neglect occurred, the release of
which is not otherwise prohibited by law.

(2) The following information about the alleged perpetrator of the abuse or
neglect:

(a) Full name;
(b) Date of birth;
(c) Address and telephone number;
(d) Name of school district and school building that employed the
alleged perpetrator at the time the report was made;
(e) Name and contact information of any medical facility that
provided treatment to the alleged perpetrator, if the alleged
perpetrator was injured in connection with the abuse or neglect and
if that information is available;
(f) A summary of interviews with the alleged perpetrator or, if
an entity other than the agency conducted the interviews, the
contact information for that entity. The summary shall include an
accounting of the facts and circumstances of the alleged abuse or
neglect, including, but not limited to, the time and place that the
abuse or neglect occurred.
(g) Copies of any written correspondence between the alleged child
victim and the alleged perpetrator that was used by the agency to
determine that abuse or neglect occurred, the release of which is
not otherwise prohibited by law;
(h) If the alleged perpetrator has been the subject of any previous
reports made pursuant to section 2151.421 of the Revised
Code where the agency determined that physical or sexual child
abuse occurred, a summary of the chronology of those reports; the
final disposition of the investigations conducted in response to
those reports, or if an investigation is not complete, the status of
that investigation; and any underlying documentation concerning
those reports.

(3) The following information about each person, other than the alleged
child victim and the alleged perpetrator, whom the agency has determined
to be important to the investigation, except that the information shall not be
provided about the person who made the report unless that person grants
written permission for the director to release the information:
   (a) Full name;
   (b) Address and telephone number;
   (c) If the person has been interviewed regarding the alleged abuse or neglect, a summary of those interviews or, if an entity other than the agency conducted the interviews, the contact information for such entity.

(D) Upon provision of any information to the superintendent of public instruction under this section, the director shall notify the superintendent of both of the following:
   (1) That the information is confidential;
   (2) That unauthorized dissemination of the information is a violation of division (H)(2) of section 2151.421 and section 3319.311 of the Revised Code and any person who permits or encourages unauthorized dissemination of the information is guilty of a misdemeanor of the fourth degree pursuant to section 2151.99 of the Revised Code.

If the director determines that the superintendent of public instruction or any person involved in the conduct of an investigation under section 3319.311 of the Revised Code committed, caused, permitted, or encouraged the unauthorized dissemination of any information provided under this section, the director shall provide written notification of the unauthorized dissemination to the prosecuting attorney of the county or the village solicitor, city director of law, or similar chief legal officer of the municipal corporation in which the unauthorized dissemination occurred. A copy of the notification shall be retained in the investigative record maintained by the public children services agency.

(E) The director shall include documentation of the information provided to the superintendent of public instruction under this section in the investigative record maintained by the public children services agency. The documentation shall include the following:
   (1) A list of the information provided;
   (2) The date the information was provided;
   (3) If the superintendent of public instruction designates a person to receive the information on the superintendent's behalf, the name of that person;
   (4) The reason for providing the information;
   (5) If written authorization to provide the information is required from the prosecuting attorney under division (B) of this section, a copy of that authorization.

(F) No director of a public children services agency shall knowingly fail to comply with division (A) or (C) of this section.

(G) A director of a public children services agency who provides information to the superintendent of public instruction in accordance with this section in good faith shall be immune from any civil or criminal liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the provision of that information.

(H) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the provisions of this section prevail over any conflicting provisions of a collective bargaining agreement or contract for employment entered into after March 30, 2007.


A.

1. The Department of Human Services shall establish a statewide centralized hotline for the reporting of child abuse or neglect to the Department.
2. The Department shall provide hotline-specific training including, but not limited to, interviewing skills, customer service skills, narrative writing, necessary computer systems, making case determinations, and identifying priority situations.
3. The Department is authorized to contract with third parties in order to train hotline workers.
4. The Department shall develop a system to track the number of calls received, and of that number:
   a. the number of calls screened out,
   b. the number of referrals assigned,
   c. the number of calls received by persons unwilling to disclose basic personal information including, but not limited to, first and last name, and
d. the number of calls in which the allegations were later found to be unsubstantiated or ruled out.
5. The Department shall electronically record each referral received by the hotline and establish a secure means of retaining the recordings for twelve (12) months. The recordings shall be confidential and subject to disclosure only if a court orders the disclosure of the referral. The Department shall redact any information identifying the reporting party unless otherwise ordered by the court.

B.

1. Every person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter promptly to the Department of Human Services. Reports shall be made to the hotline provided for in subsection A of this section. Any allegation of abuse or neglect reported in any manner to a county office shall immediately be referred to the hotline by the Department. Provided, however, that in actions for custody by abandonment, provided for in Section 2-117 of Title 30 of the Oklahoma Statutes, there shall be no reporting requirement.
2. Every physician, surgeon, or other health care professional including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child who tests positive for alcohol or a controlled dangerous substance shall promptly report the matter to the Department.
3. No privilege or contract shall relieve any person from the requirement of reporting pursuant to this section.
4. The reporting obligations under this section are individual, and no employer, supervisor, administrator, governing body or entity shall interfere with the reporting obligations of any employee or other person or in any manner discriminate or retaliate against the employee or other person who in good faith reports suspected child abuse or neglect, or who provides testimony in any proceeding involving child abuse or neglect. Any employer, supervisor, administrator, governing body or entity who discharges, discriminates or retaliates against the employee or other person shall be liable for damages, costs and attorney fees. If a child who is the subject of the report or other child is harmed by the discharge, discrimination or retaliation described in this paragraph, the party harmed may file an action to recover damages, costs and attorney fees.
5. Every physician, surgeon, or other health care professional making a report of abuse or neglect as required by this subsection or examining a child to determine the likelihood of abuse or neglect and every hospital or related institution in which the child was examined or treated shall provide, upon request, copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department of Human Services conducting an investigation of alleged abuse or neglect in the case.

C. Any person who knowingly and willfully fails to promptly report suspected child abuse or neglect or who interferes with the prompt reporting of suspected child abuse or neglect may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor. Any person with prolonged knowledge of ongoing child abuse or neglect who knowingly and willfully fails to promptly report such knowledge may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a felony. For the purposes of this paragraph, “prolonged knowledge” shall mean knowledge of at least six (6) months of child abuse or neglect.

D.

1. Any person who knowingly and willfully makes a false report pursuant to the provisions of this section or a report that the person knows lacks factual foundation may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

2. If a court determines that an accusation of child abuse or neglect made during a child custody proceeding is false and the person making the accusation knew it to be false at the time the accusation was made, the court may impose a fine, not to exceed Five Thousand Dollars ($5,000.00) and reasonable attorney fees incurred in recovering the sanctions, against the person making the accusation. The remedy provided by this paragraph is in addition to paragraph 1 of this subsection or to any other remedy provided by law.

E. Nothing contained in this section shall be construed to exempt or prohibit any person from reporting any suspected child abuse or neglect pursuant to subsection B of this section.

10A § 1-2-102v2. Department of Human Services – Required actions for reports of child abuse.


A.

1. Upon receipt of a report that a child may be abused, neglected or drug-endangered, the Department of Human Services shall conduct a safety analysis.

2. The Department may employ or contract with active or retired social work, medical and law enforcement professionals who shall be strategically placed throughout the state to:
   a. provide investigation support and to assist caseworkers with assessment decisions and intervention activities,
   b. serve as consultants to caseworkers in all aspects of their duties, and
   c. designate persons who shall act as liaisons within the Department whose primary functions are to develop relationships with local law enforcement agencies and courts.

3. The Department shall forward a report of its assessment or investigation
and findings to any district attorney's office which may have jurisdiction to file a petition pursuant to Section 1-4-101 of this title.

4. If the child is a member of an active duty military family, the Department shall notify the designated federal authorities at the federal military installation where the active duty service member is assigned that the Department has received a report that such child may be abused, neglected or drug-endangered.

5. Whenever the Department determines there is a child that meets the definition of a “drug-endangered child”, as defined in Section 1-1-105 of this title, or a child has been diagnosed with fetal alcohol syndrome, the Department shall conduct an investigation of the allegations and shall not limit the evaluation of the circumstances to an assessment.

B.

1. If, upon receipt of a report alleging abuse or neglect or during the assessment or investigation, the Department determines that:
   a. the alleged perpetrator is someone other than a person responsible for the child's health, safety, or welfare, and
   b. the alleged abuse or neglect of the child does not appear to be attributable to failure on the part of a person responsible for the child's health, safety, or welfare to provide protection for the child, the Department shall immediately make a referral, either verbally or in writing, to the appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation.

2. After making the referral to the law enforcement agency, the Department shall not be responsible for further investigation unless:
   a. the Department has reason to believe the alleged perpetrator is a parent of another child, not the subject of the criminal investigation, or is otherwise a person responsible for the health, safety, or welfare of another child,
   b. notice is received from a law enforcement agency that it has determined the alleged perpetrator is a parent of or a person responsible for the health, safety, or welfare of another child not the subject of the criminal investigation, or
   c. the appropriate law enforcement agency requests the Department to assist in the investigation. If funds and personnel are available, as determined by the Director of the Department or a designee, the Department may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse.

3. If, upon receipt of a report alleging abuse or neglect or during the assessment or investigation, the Department determines that the alleged abuse or neglect of the child involves:
   a. a child in the custody of the Office of Juvenile Affairs, and
   b. at the time of the alleged abuse or neglect, such child was placed in a secure facility operated by the Office of Juvenile Affairs, as defined by Section 2-1-103 of this title,
the Department shall immediately make a referral, either verbally or in writing, to the appropriate law enforcement agency for the purpose of conducting a possible criminal investigation. After making the referral to the law enforcement agency, the Department shall not be responsible for further investigation.

C.

1. Any law enforcement agency receiving a referral as provided in this section shall provide the Department with a copy of the report of any investigation resulting from a referral from the Department.

2. Whenever, in the course of any criminal investigation, a law enforcement agency determines that there is cause to believe that a child, other than a
child in the custody of the Office of Juvenile Affairs and placed in an Office of Juvenile Affairs secure juvenile facility, may be abused or neglected by reason of the acts, omissions, or failures on the part of a person responsible for the health, safety, or welfare of the child, the law enforcement agency shall immediately contact the Department for the purpose of an investigation.

D. If, upon receipt of a report alleging abuse or neglect, the Department determines that the family has been the subject of a deprived petition, the Department shall conduct a thorough investigation of the allegations and shall not limit the evaluation of the circumstances to an assessment. In addition, if the family has been the subject of three (3) or more referrals, the Department shall conduct a thorough investigation of the allegations and shall not limit the evaluation of the circumstances to an assessment.

10A § 1-2-104. Immunity from civil and criminal liability - Presumption.

A. Any person who, in good faith and exercising due care, reports suspected child abuse or neglect, or who allows access to a child by persons authorized to investigate a report concerning the child shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

B. For purposes of any proceeding, civil or criminal, the good faith of any person in making a report pursuant to the provisions of Section 1-2-101 of this title shall be presumed.

C. A child advocacy center that is accredited by the National Children's Alliance, and the employees thereof, who are acting in good faith and exercising due care shall have immunity from civil liability that may be incurred or imposed through participation in the investigation process and any judicial proceeding resulting from the investigation process.


A. The Department of Human Services may provide information to a person or agency that provides professional services such as medical examination of or therapeutic intervention with a victim of abuse or neglect. This information may include, but is not limited to:
1. The investigative determination; or
2. The services offered and provided.

B. The Department shall forward to any hospital or any physician, including, but not limited to, doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, reporting the abuse or neglect of a child pursuant to Section 1-2-101 of this title, information including the investigative determination, the services offered or provided, and such other information deemed necessary by the Department. The information shall be entered and maintained in the medical records of the child.

10A § 1-4-507. Admissibility of evidence.

In any proceeding resulting from a report made pursuant to Section 1-2-101 of this
title or in any proceeding where such a report or any contents of the report are sought to be introduced into evidence, such report, contents, or other fact related thereto or to the condition of the child or victim who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege or similar privilege or rule against disclosure.

10A § 1-6-102. Confidential records.

A. Except as provided by this section and except as otherwise specifically provided by state and federal laws, the following records are confidential and shall not be open to the general public or inspected or their contents disclosed:
1. Juvenile court records;
2. Agency records;
3. District attorney's records;
4. Court Appointed Special Advocate records pertaining to a child welfare case;
5. Law enforcement records;
6. Nondirectory education records; and
7. Social records.

B. The limitation of subsection A of this section shall not apply to statistical information and other abstract information obtained pursuant to the provisions of the Oklahoma Children's Code.

C. Except as authorized by Section 620.6 of Title 10 of the Oklahoma Statutes and this chapter and except as otherwise specifically provided by state and federal laws pertaining to education records, medical records, drug or alcohol treatment records, law enforcement, or social service records, the records listed in subsection A of this section shall be confidential and shall be inspected, released, disclosed, corrected or expunged only pursuant to an order of the court. A subpoena or subpoena duces tecum purporting to compel testimony or disclosure of such information or record shall be invalid.

D.
1. In a proceeding where the child custody or visitation is at issue, the safety analysis records of the Department shall be produced to the court when a parent, legal guardian, or child who is the subject of such record obtains a court order directing the production of the records.
2. The person or party seeking the records shall proceed by filing a motion for production of safety analysis records which contains the following averments:
   a. the movant is a parent, legal guardian, or child who is the subject of the safety analysis records,
   b. child custody or visitation is at issue,
   c. that upon receipt from the court, the safety analysis records shall be kept confidential and disclosed only to the movant, the attorneys of the movant, those persons employed by or acting on behalf of the movant and the attorneys of the movant whose aid is necessary to the prosecution or defense of the child custody or visitation issue, and
   d. that a copy of the motion is being provided to the parties, the attorney of the child, if any, and the guardian ad litem, if any.
3. Upon filing the motion for production of safety analysis records, the court may, in its discretion, enter an ex parte order for production of safety analysis records that shall be substantially in the following form:
   CONFIDENTIAL RECORDS DISCLOSURE AND PROTECTIVE ORDER
   NOW on this _____ day of _________ , 20__, the court finds that child custody
or visitation is at issue in the above styled and numbered proceeding and
the disclosure of the safety analysis records of the Oklahoma Department
of Human Services pursuant to Section 1-6-102 of this title is necessary and
relevant to the court's determination of the child's best interests. The court
therefore orders as follows:

a. The Oklahoma Department of Human Services (“Department"
or “DHS”) shall produce a copy of its safety analysis records to this
court on or before ___ day of _______ , 20__.
b. The Department shall be permitted to redact or omit information
in its safety analysis records which may identify the reporter of
alleged child abuse or neglect.
c. All information contained in the safety analysis records of the
Department is confidential under Oklahoma law and shall be
disclosed only to the parties, the attorneys of the parties, and those
persons employed by or acting on behalf of the parties and the
attorneys of the parties whose aid is necessary to the prosecution
or defense of the child custody or visitation issue.
d. No confidential information whether contained in pleadings,
b briefs, discovery, or other documents shall be filed except under
seal with the legend “THIS DOCUMENT CONTAINS CONFIDENTIAL
INFORMATION AND IS SUBJECT TO A PROTECTIVE ORDER OF THE
COURT”.
e. No person or entity shall utilize any information contained in the
safety analysis records for any purpose other than the prosecution
or defense of the child custody or visitation issues in this case.
f. The release by counsel or any other person for any reason of
identifiers such as social security or tax ID numbers that may be
contained in the Department records and which belong to any
person or entity is strictly prohibited.
g. Any violation of this order shall be subject to prosecution for
contempt of court.

IT IS SO ORDERED this ___ day of _______ , 20__.

4. This subsection shall not apply to:

a. deprived child proceedings brought pursuant to the Oklahoma
Children's Code,
b. discovery of safety analysis records by a person or entity who is
not the subject of those records, or
c. discovery of safety analysis records in criminal, other civil, or
administrative proceedings.

5. The party who has obtained a court order for the safety analysis records
of the Department shall provide the Department with the names and
other identifying information concerning the subjects of the safety analysis
records.

6. Upon receipt of a court order to produce its safety analysis records, the
Department shall be given a minimum of five (5) judicial days to deliver the
records to the court.

7. The safety analysis records provided by the Department to the court
pursuant to this subsection shall not be subject to judicial review and shall
be released by the court only to the litigants in the case under a protective
order.

8. A court order entered pursuant to this subsection which purports to
require the Department to produce all agency records shall be deemed to
require only the production of the safety analysis records of the Department.

9. An employee of the Department shall not be compelled to testify about
the safety analysis records except upon a court order directing such
testimony. Any subpoena or subpoena duces tecum purporting to compel
disclosure of safety analysis records or testimony concerning such records
without a court order shall be invalid.
10. Except as provided by this subsection or other law, confidential records may be inspected, released, disclosed, corrected, or expunged only by the procedure set forth in subsection E of this section.

E. When confidential records may be relevant in a criminal, civil, or administrative proceeding, an order of the court authorizing the inspection, release, disclosure, correction, or expungement of confidential records shall be entered by the court only after a judicial review of the records and a determination of necessity pursuant to the following procedure:

1. A petition or motion shall be filed with the court describing with specificity the confidential records being sought and setting forth in detail the compelling reason why the inspection, release, disclosure, correction, or expungement of confidential records should be ordered by the court. A petition or motion that does not contain the required specificity or detail may be subject to dismissal by the court;

2. Upon the filing of the petition or motion, the court shall set a date for a hearing and shall require notice of not less than twenty (20) days to the agency or person holding the records and the person who is the subject of the record if such person is eighteen (18) years of age or older or to the parents of a child less than eighteen (18) years of age who is the subject of the record, to the attorneys, if any, of such person, child or parents and any other interested party as ordered by the court. The court may also enter an ex parte order compelling the person or agency holding the records to either produce the records to the court on or before the date set for hearing or file an objection or appear for the hearing. The court may shorten the time allowed for notice due to exigent circumstances;

3. At the hearing, should the court find that a compelling reason does not exist for the confidential records to be judicially reviewed, the matter shall be dismissed; otherwise, the court shall order that the records be produced for a judicial review. The hearing may be closed at the discretion of the court; and

4. The judicial review of the records shall include a determination, with due regard for the confidentiality of the records and the privacy of persons identified in the records, as to whether an order should be entered authorizing the inspection, release, disclosure, correction, or expungement of the records based upon the need for the protection of a legitimate public or private interest.

F. The court may, for good cause shown, prohibit the release of such confidential records or testimony or authorize a release of the confidential information or testimony upon such conditions as the court deems necessary and appropriate, subject to the provisions of this section.

G. Any public or private agency, entity, or professional person required to produce confidential records pursuant to this section may require payment of fees from the party seeking the records prior to any records being produced, including a research fee not exceeding Twenty Dollars ($20.00) per hour and a copy fee not to exceed fifty cents ($0.50) per page and Five Dollars ($5.00) per copy of each video tape or disk; provided, the court may waive such costs in a criminal action based upon indigence of a defendant. The Department shall not be permitted to assess fees for records produced pursuant to subsection D of this section or in the provision of records to the Office of Juvenile Affairs pursuant to paragraph 13 of subsection H of this section.

H. Nothing in Section 620.6 of Title 10 of the Oklahoma Statutes and this chapter shall be construed as:

1. Authorizing the inspection of records or the disclosure of information contained in records relating to the provision of benefits or services funded, in whole or in part, with federal funds, except in accord with federal statutes and regulations governing the receipt or use of such funds;
2. Authorizing the disclosure of papers, records, books or other information relating to the adoption of a child required to be kept confidential. The disclosure of such information shall be governed by the provisions of the Oklahoma Adoption Code;
3. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;
4. Limiting or otherwise affecting access of parties to a deprived proceeding to records filed with or submitted to the court;
5. Limiting or otherwise affecting access of agencies to information subject to disclosure, review, or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency;
6. Prohibiting the Department of Human Services from summarizing the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect or to any person providing services to a child who is or is alleged to be a victim of child abuse;
7. Authorizing the disclosure of information which identifies any person who has reported an allegation of known or suspected child abuse or neglect unless such disclosure is specifically ordered by the court;
8. Authorizing the disclosure of a recording or a transcription of a hotline referral which identifies any person who has reported an allegation of known or suspected child abuse or neglect, unless the disclosure is specifically ordered by the court;
9. Prohibiting the Department of Human Services from providing a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits parents to evaluate the facility;
10. Prohibiting the disclosure of confidential information to any educational institution, facility, or educator to the extent necessary to enable the educator to better provide educational services and activities for a child and provide for the safety of students;
11. Prohibiting the Department from obtaining, without a court order, nondirectory education records pertaining to a child in the legal custody of the Department;
12. Prohibiting the Department from providing records to a federally recognized Indian tribe for any individual who has applied for foster care placement, adoptive placement, or guardianship placement through the tribe; provided, that the tribe shall be required to maintain the confidentiality of the records; or
13. Prohibiting the Department from providing records to the Office of Juvenile Affairs for any individual who has applied for foster care.


A. A child may be taken into custody prior to the filing of a petition alleging that the child is delinquent or in need of supervision:
   1. By a peace officer, without a court order for any criminal offense for which the officer is authorized to arrest an adult without a warrant, or if the child is willfully and voluntarily absent from the home of the child without the consent of the parent, legal guardian, legal custodian or other person having custody and control of the child for a substantial length of time or without intent to return, or if the surroundings of the child are such as to endanger the welfare of the child;
   2. By a peace officer or an employee of the court without a court order, if the child is willfully and voluntarily absent from the home of the child without
the consent of the parent, legal guardian, legal custodian or other person having custody and control of the child if the surroundings of the child are such as to endanger the welfare of the child or, in the reasonable belief of the employee of the court or peace officer, the child appears to have run away from home without just cause. For purposes of this section, a peace officer may reasonably believe that a child has run away from home when the child refuses to give his or her name or the name and address of a parent or other person legally responsible for the care of the child or when the peace officer has reason to doubt that the name and address given by the child are the actual name and address of the parent or other person legally responsible for the care of the child. A peace officer or court employee is authorized by the court to take a child who has run away from home or who, in the reasonable belief of the peace officer, appears to have run away from home, to a facility designated by administrative order of the court for such purposes if the peace officer or court employee is unable to or has determined that it is unsafe to return the child to the home of the child or to the custody of his or her parent or other person legally responsible for the care of the child. Any such facility receiving a child shall inform a parent or other person responsible for the care of the child;

3. Pursuant to an order of the district court issued on the application of the office of the district attorney. The application presented by the district attorney shall be supported by a sworn affidavit which may be based upon information and belief. The application shall state facts sufficient to demonstrate to the court that there is probable cause to believe the child has committed a crime or is in violation of the terms of probation, parole or order of the court;

4. By order of the district court pursuant to subsection F of this section when the child is in need of medical or behavioral health treatment or other action in order to protect the health or welfare of the child and the parent, legal guardian, legal custodian or other person having custody or control of the child is unwilling or unavailable to consent to such medical or behavioral health treatment or other action; and

5. Pursuant to an emergency ex parte or a final protective order of the district court issued at the request of a parent or legal guardian pursuant to the Protection from Domestic Abuse Act.

Any child referred to in this subsection shall not be considered to be in the custody of the Office of Juvenile Affairs.

B. Whenever a child is taken into custody as a delinquent child, the child shall be detained, held temporarily in the custodial care of a peace officer or other person employed by a police department, or be released to the custody of the parent of the child, legal guardian, legal custodian, attorney or other responsible adult, upon the written promise of such person to bring the child to the court at the time fixed if a petition is to be filed and to assume responsibility for costs for damages caused by the child if the child commits any delinquent acts after being released regardless of whether or not a petition is to be filed. It shall be a misdemeanor for any person to sign the written promise and then fail to comply with the terms of the promise. Any person convicted of violating the terms of the written promise shall be subject to imprisonment in the county jail for not more than six (6) months or a fine of not more than Five Hundred Dollars ($500.00), or by both such fine and imprisonment. In addition, if a parent, legal guardian, legal custodian, attorney or other responsible adult is notified that the child has been taken into custody, it shall be a misdemeanor for such person to refuse to assume custody of the child within a timely manner. If detained, the child shall be taken immediately before a judge of the district court in the county in which the child is sought to be detained, or to the place of detention or shelter designated by the court. If no judge be available locally, the person having the child in custody shall immediately report the detention of the child to the presiding judge of the judicial administrative district, provided that the child shall not be
detained in custody beyond the next judicial day or for good cause shown due to
problems of arranging for and transporting the child to and from a secure juvenile
detention center, beyond the second judicial day unless the court shall so order after
a detention hearing to determine if there exists probable cause to detain the child.
The child shall be present at the detention hearing or the image of the child may be
broadcast to the judge by closed-circuit television or any other electronic means that
provides for a two-way communication of image and sound between the child and
the judge. If the latter judge cannot be reached, such detention shall be reported
immediately to any judge regularly serving within the judicial administrative district.
If detained, a reasonable bond for release shall be set. Pending further disposition of
the case, a child whose custody has been assumed by the court may be released to
the custody of a parent, legal guardian, legal custodian, or other responsible adult or
to any other person appointed by the court, or be detained pursuant to Chapter 3 of
the Oklahoma Juvenile Code in such place as shall be designated by the court, subject
to further order.

C. When a child is taken into custody as a child in need of supervision, the child shall
be detained and held temporarily in the custodial care of a peace officer or placed
within a community intervention center as defined in subsection D of Section 2-7-
305 of this title, an emergency shelter, emergency shelter host home, or be released
to the custody of the parent of the child, legal guardian, legal custodian, attorney
or other responsible adult, upon the written promise of such person to bring the
child to court at the time fixed if a petition is to be filed. A child who is alleged or
adjudicated to be in need of supervision shall not be detained in any jail, lockup, or
other place used for adults convicted of a crime or under arrest and charged with a
crime.

D. When any child is taken into custody pursuant to this title and it reasonably
appears to the peace officer, employee of the court or person acting pursuant to
court order that the child is in need of medical treatment to preserve the health of
the child, any peace officer, any employee of the court or person acting pursuant to
court order shall have the authority to authorize medical examination and medical
treatment for any child found to be in need of medical treatment as diagnosed by a
competent medical authority in the absence of the parent of the child, legal guardian,
legal custodian, or other person having custody and control of the child who is
competent to authorize medical treatment. The officer or the employee of the court
or person acting pursuant to court order shall authorize said medical treatment only
after exercising due diligence to locate the parent of the child, legal guardian, legal
custodian, or other person legally competent to authorize said medical treatment.
The parent of the child, legal guardian, legal custodian, or other person having
custody and control shall be responsible for such medical expenses as ordered by
the court. No peace officer, any employee of the court or person acting pursuant
to court order authorizing such treatment in accordance with the provisions of this
section for any child found in need of such medical treatment shall have any liability,
civil or criminal, for giving such authorization.

E. A child who has been taken into custody as otherwise provided by this Code who
appears to be a minor in need of treatment, as defined by the Inpatient Mental
Health and Substance Abuse Treatment of Minors Act, may be admitted to a
behavioral health treatment facility in accordance with the provisions of the Inpatient
Mental Health and Substance Abuse Treatment of Minors Act. The parent of the
child, legal guardian, legal custodian, or other person having custody and control
shall be responsible for such behavioral health expenses as ordered by the court. No
peace officer, any employee of the court or person acting pursuant to court order
authorizing such treatment in accordance with the provisions of this section for any
child found in need of such behavioral health evaluation or treatment shall have any
liability, civil or criminal, for giving such authorization.
F.

1. A child may be taken into custody pursuant to an order of the court specifying that the child is in need of medical treatment or other action to protect the health or welfare of the child and the parent, legal guardian, legal custodian, or other responsible adult having custody or control of a child is unwilling or unavailable to consent to such medical treatment or other action.

2. If the child is in need of immediate medical treatment or other action to protect the health or welfare of the child, the court may issue an emergency ex parte order upon application of the district attorney of the county in which the child is located. The application for an ex parte order may be verbal or in writing and shall be supported by facts sufficient to demonstrate to the court that there is reasonable cause to believe that the child is in need of immediate medical treatment or other action to protect the health or welfare of the child. The emergency ex parte order shall be in effect until a full hearing is conducted. A copy of the application, notice for full hearing and a copy of any ex parte order issued by the court shall be served upon such parent, legal guardian, legal custodian, or other responsible adult having custody or control of the child. Within twenty-four (24) hours of the filing of the application the court shall schedule a full hearing on the application, regardless of whether an emergency ex parte order had been issued or denied.

3. Except as otherwise provided by paragraph 2 of this subsection, whenever a child is in need of medical treatment to protect the health or welfare of the child, or whenever any other action is necessary to protect the health or welfare of the child, and the parent of the child, legal guardian, legal custodian, or other person having custody or control of the child is unwilling or unavailable to consent to such medical treatment or other action, the court, upon application of the district attorney of the county in which the child is located, shall hold a full hearing within five (5) days of filing the application. Notice of the hearing and a copy of the application shall be served upon the parent, legal guardian, legal custodian, or other person having custody or control of the child.

4. At any hearing held pursuant to this subsection, the court may grant any order or require such medical treatment or other action as is necessary to protect the health or welfare of the child.

5. a. The parent, legal guardian, legal custodian, or other person having custody or control of the child shall be responsible for such medical expenses as ordered by the court.

   b. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this subsection for any child found in need of such medical treatment shall have any liability, civil or criminal.

G. As a part of the intake process, an employee of the Office of Juvenile Affairs or a county juvenile bureau shall inquire as to whether there is any American Indian lineage or ancestry that would make the child eligible for membership or citizenship in a federally recognized American Indian tribe or nation. If the employee of the Office of Juvenile Affairs or a county juvenile bureau determines that the child may have American Indian lineage or ancestry, the employee shall notify the primary tribe or nation of membership or citizenship within three (3) judicial days of completing an intake of such determination. Any information or records related to taking the child into custody shall be confidential, shall not be open to the general public, and shall not be inspected or their contents disclosed.

21 § 455. Preventing witness from giving testimony.
A. Every person who willfully prevents or attempts to prevent any person from giving testimony or producing any record, document or other object, who has been duly summoned or subpoenaed or endorsed on the criminal information or juvenile petition as a witness, or who makes a report of abuse or neglect pursuant to Section 1-2-101 of Title 10A of the Oklahoma Statutes or Section 10-104 of Title 43A of the Oklahoma Statutes, or who is a witness to any reported crime, or threatens or procures physical or mental harm through force or fear with the intent to prevent any witness from appearing in court to give his or her testimony or produce any record, document or other object, or to alter his or her testimony is, upon conviction, guilty of a felony punishable by not less than one (1) year nor more than ten (10) years in the custody of the Department of Corrections.

B. Every person who threatens physical harm through force or fear or causes or procures physical harm to be done to any person or harasses any person or causes a person to be harassed because of testimony given by such person in any civil or criminal trial or proceeding, or who makes a report of abuse or neglect pursuant to Section 1-2-101 of Title 10A of the Oklahoma Statutes or Section 10-104 of Title 43A of the Oklahoma Statutes, is, upon conviction, guilty of a felony punishable by not less than one (1) year nor more than ten (10) years in the custody of the Department of Corrections.

21 § 1021.4. Disclosure of obscene materials containing minors.

A. Any commercial film and photographic print processor or commercial computer technician who has knowledge of or observes, within the scope of such person's professional capacity or employment, any film, photograph, video tape, negative, or slide, or any computer file, recording, CD-ROM, magnetic disk memory, magnetic tape memory, picture, graphic or image that is intentionally saved, transmitted or organized on hardware or any other media including, but not limited to, CDs, DVDs and thumbdrives, whether digital, analog or other means and whether directly viewable, compressed or encoded depicting a child under the age of eighteen (18) years engaged in an act of sexual conduct as defined in Section 1024.1 of this title shall immediately or as soon as possible report by telephone such instance of suspected child abuse or child pornography to the law enforcement agency having jurisdiction over the case and shall prepare and send a written report of the incident with an attached copy of such material, within thirty-six (36) hours after receiving the information concerning the incident.

For the purposes of this section:

1. “Commercial film and photographic print processor” means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term shall also include any employee of such a person but shall not include a person who develops film or makes prints for a public agency; and
2. “Commercial computer technician” means any person who repairs, installs, or otherwise services any computer including, but not limited to, any component part, device, memory storage or recording mechanism, auxiliary storage, recording or memory capacity, or any other materials relating to operation and maintenance of a computer or computer network or system, for compensation. The term shall also include any employee of such person.

B. Any person who violates the provisions of this section, upon conviction, shall be guilty of a misdemeanor and shall be punished by the imposition of a fine not to exceed Five Hundred Dollars ($500.00) or by imprisonment in the county jail not to exceed one (1) year, or both such fine and imprisonment.
C. Nothing in this section shall be construed to require or authorize any person to act outside the scope of such person's professional capacity or employment by searching for prohibited materials or media.

30 § 4-903. Reporting of abuse, neglect, or exploitation - Violation and penalty - Civil liability.

A.
1. Any person having reasonable cause to believe that an incapacitated person, a partially incapacitated person, or a minor is suffering from abuse, neglect, or exploitation shall make a report to the Department of Human Services, the office of the district attorney in the county in which the suspected abuse, neglect, or exploitation occurred, or the local municipal police department or sheriff's department as soon as such person is aware of the situation.
2. With regard to minors, the use of ordinary force as a means of discipline pursuant to Section 844 of Title 21 of the Oklahoma Statutes shall not constitute abuse.
3. Reports regarding the abuse, neglect, or exploitation of an incapacitated person, or a partially incapacitated person shall be made and shall be governed by the provisions of the Protective Services for Vulnerable Adults Act. Reports regarding the abuse, neglect, or exploitation of a minor shall be made and shall be governed by the Oklahoma Child Abuse Reporting and Prevention Act.

B. Any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation as required by the provisions of subsection A of this section, upon conviction, shall be guilty of a misdemeanor.

C. Any person participating in good faith and exercising due care in the making of a report pursuant to the provisions of this section shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

D. Any person who willfully or recklessly makes a false report or a report without a reasonable basis in fact for such a report pursuant to the provisions of this section shall be civilly liable for any actual damages suffered by the person or persons being reported and for any punitive damages set by the court or jury which may be allowed in the discretion of the court or jury.

E. No employer shall terminate the employment, prevent or impair the practice or occupation of, or impose any other sanction on any employee solely for the reason that the employee made or caused to be made a report or cooperated with an investigation pursuant to the provisions of this section. A court, in addition to other damages and remedies, may assess reasonable attorney fees against an employer who has been found to have violated the provisions of this subsection.


A. There is hereby created the Child Abuse Training and Coordination Council.

B. The Oklahoma Commission on Children and Youth shall appoint a Child Abuse Training and Coordination Council which shall be composed of twenty-two (22)
members, as follows:

1. One member shall be a representative of child welfare services within the Department of Human Services;
2. One member shall be a representative of juvenile services within the Office of Juvenile Affairs;
3. One member shall be a representative of maternal and child health services within the State Department of Health;
4. One member shall be a representative of the State Department of Health;
5. One member shall be a representative of the State Department of Education;
6. One member shall be a representative of the Department of Mental Health and Substance Abuse Services;
7. One member shall be a representative of a statewide medical association and shall be a member of a state chapter of a national academy of pediatrics;
8. One member shall be a representative of the judiciary;
9. One member shall be a representative of a statewide association of osteopathic physicians and shall be a pediatric osteopathic physician;
10. One member shall be a representative of a statewide coalition on domestic violence and sexual assault;
11. One member shall be a representative of the District Attorneys Council;
12. One member shall be a representative of the Council on Law Enforcement Education and Training;
13. One member shall be a representative of the Department of Corrections;
14. One member shall be a representative of Court Appointed Special Advocates;
15. One member shall be a representative of the Oklahoma Bar Association;
16. One member shall be a representative of a statewide association of psychologists;
17. One member shall be a representative of a local chapter of a national association of social workers;
18. One member shall be a representative of a statewide association of youth services agencies;
19. One member shall be a representative of an Indian child welfare association;
20. One member shall be a representative of an advisory task force on child abuse and neglect;
21. One member shall be a representative of a postadjudication review board program; and
22. One member shall be a representative of nationally accredited child advocacy centers nominated to the Oklahoma Commission for Children and Youth. Eligible nominees may be anyone selected by a majority of the members of the nationally accredited child advocacy centers located in Oklahoma.

C. Each member of the Child Abuse Training and Coordination Council is authorized to have one designee.

D. The appointed members shall be persons having expertise in the dynamics, identification and treatment of child abuse and neglect and child sexual abuse.

E. The Child Abuse Training and Coordination Council shall:
1. Establish objective criteria and guidelines for multidisciplinary and, as appropriate for each discipline, discipline-specific training on child abuse and neglect for professionals with responsibilities affecting children, youth and families;
2. Review curricula and make recommendations to state agencies and professional organizations and associations regarding available curricula and
curricula having high standards of professional merit;
3. Review curricula regarding child abuse and neglect used in law
   enforcement officer training by the Oklahoma Council on Law Enforcement
   Education and Training (CLEET) and make recommendations regarding the
   curricula to CLEET;
4. Cooperate with and assist professional organizations and associations
   in the development and implementation of ongoing training programs
   and strategies to encourage professionals to participate in such training
   programs;
5. Make reports and recommendations regarding the continued
   development and improvement of such training programs to the State
   Commissioner of Health, the Oklahoma Commission on Children and Youth,
   and each affected agency, organization and association;
6. Prepare and issue a model protocol for multidisciplinary teams regarding
   the investigation and prosecution of child sexual abuse, child physical abuse
   and neglect cases;
7. Review and approve protocols prepared by the local multidisciplinary
   teams;
8. Advise multidisciplinary teams on team development;
9. Collect data on the operation and cases reviewed by the multidisciplinary
   teams;
10. Issue annual reports; and
11. Annually approve the list of functioning multidisciplinary teams in the
    state.

70 § 6-194. Professional Development Programs - Development and
Adoption.


A. The district boards of education of this state shall establish professional
development programs for the certified teachers and administrators of the district.
Programs shall be adopted by each board based upon recommendations of a
professional development committee appointed by the board of education for the
district. For the fiscal years ending June 30, 2011, and June 30, 2012, a school district
board of education may elect not to adopt and offer a professional development
program for certified teachers and administrators of the district. If a school district
elects not to adopt and offer a professional development program, the district may
expend any monies allocated for professional development for any purpose related
to the support and maintenance of the school district as determined by the board of
education of the school district.

B. Each professional development committee shall include classroom teachers,
administrators, school counselors or licensed mental health providers, and parents,
guardians or custodians of children in the school district and shall consult with a
higher education faculty. A majority of the members of the professional development
committee shall be composed of classroom teachers. The teacher members shall
be selected by a designated administrator of the school district from a list of names
submitted by the teachers in the school district. The members selected shall be
subject to the approval of a majority vote of the teachers in the district.

C. In developing program recommendations, each professional development
committee shall annually utilize a data-driven approach to analyze student
data and determine district and school professional development needs. The
professional development programs adopted shall be directed toward development
of competencies and instructional strategies in the core curriculum areas for the
following goals:
   1. Increasing the academic performance data scores for the district and each
      school site;
2. Closing achievement gaps among student subgroups;
3. Increasing student achievement as demonstrated on state-mandated tests and the ACT;
4. Increasing high school graduation rates; and
5. Decreasing college remediation rates.

Each program may also include components on classroom management and student discipline strategies, outreach to parents, guardians or custodians of students, special education, and racial and ethnic education, which all personnel defined as teachers in Section 1-116 of this title shall be required to complete on a periodic basis. The State Board of Education shall provide guidelines to assist school districts in developing and implementing racial and ethnic education components into professional development programs.

D. At a minimum of once an academic year a program shall be offered which includes the following:
1. Training on recognition of child abuse and neglect;
2. Recognition of child sexual abuse;
3. Proper reporting of suspected abuse; and
4. Available resources.

E. One time per year, beginning in the 2009-2010 school year, training in the area of autism shall be offered and all resident teachers of students in early childhood programs through grade three shall be required to complete the autism training during the resident year and at least one time every three (3) years thereafter. All other teachers and education support professionals of students in early childhood programs through grade three shall be required to complete the autism training at least one time every three (3) years. The autism training shall include a minimum awareness of the characteristics of autistic children, resources available and an introduction to positive behavior supports to challenging behavior. Each adopted program shall allow school counselors to receive at least one-third (1/3) of the hours or credit required each year through programs or courses specifically designed for school counselors.

Districts are authorized to utilize any means for professional development that is not prohibited by law including, but not limited to, professional development provided by the district, any state agency, institution of higher education, or any private entity.

F. Except as otherwise provided for in this subsection, each certified teacher in this state shall be required by the district board of education to meet the professional development requirements established by the board, or established through the negotiation process. Except as otherwise provided for in this subsection, the professional development requirements established by each board of education shall require every teacher to annually complete a minimum number of the total number of points required to maintain employment. Failure of any teacher to meet district board of education professional development requirements may be grounds for nonrenewal of such teacher's contract by the board. Such failure may also be grounds for nonconsideration of salary increments affecting the teacher. For the fiscal years ending June 30, 2011, and June 30, 2012, a certified teacher shall not be required to complete any points of the total number of professional development points required. Provided, a teacher may elect to complete some or all of the minimum number of points required for the two (2) fiscal years and any points completed shall be counted toward the total number of points required to maintain employment. If a teacher does not complete some or all of the minimum number of points required for one (1) or both fiscal years, the total number of points required to maintain employment shall be adjusted and reduced by the number of points not completed.

G. Each district shall annually submit a report to the State Department of Education on the district level professional development needs, activities completed,
expenditures, and results achieved for each school year by each goal as provided in subsection C of this section. If a school district elects not to adopt and offer a professional development program as provided for in subsection A of this section, the district shall not be required to submit an annual report as required pursuant to this subsection but shall report to the State Department of Education its election not to offer a program and all professional development activities completed by teachers and administrators of the school district.

H. Subject to the availability of funds, the Department shall develop an online system for reporting as required in subsection E of this section. The Department shall also make such information available on its website.

The Oregon State Bar shall adopt rules to establish minimum training requirements for all active members of the bar relating to the duties of attorneys under ORS 124.060 and 419B.010. Rules adopted under this section are subject to review and approval by the Supreme Court.

§ 163.693. Failure to report child pornography.

(1) As used in this section:
   (a) Computer technician means a person who repairs, installs or otherwise services a computer, computer network or computer system for compensation.
   (b) Processor of photographic images means a person who develops, processes, reproduces, transfers, edits or enhances photographic film into negatives, slides, prints, movies, digital images or video.

(2) A processor of photographic images or a computer technician who reasonably believes the processor or technician has observed a visual recording of a child involved in sexually explicit conduct shall report the name and address, if known, of the person requesting the processing or of the owner or person in possession of the computer, computer network or computer system to:
   (a) The CyberTipline at the National Center for Missing and Exploited Children;
   (b) The local office of the Department of Human Services; or
   (c) A law enforcement agency within the county where the processor or technician making the report is located at the time the visual recording is observed.

(3) Nothing in this section requires a processor of photographic images or a computer technician to monitor any user, subscriber or customer or to search for prohibited materials or media.

(4) Any person, their employer or a third party complying with this section in good faith shall be immune from civil or criminal liability in connection with making the report, except for willful or wanton misconduct.

(5) A person commits the crime of failure to report child pornography if the person violates the provisions of this section.

(6) Failure to report child pornography is a Class A misdemeanor.


(1) Each school district board shall adopt a child sexual abuse prevention instructional program for students in kindergarten through grade 12.

(2) School districts must include in the program:
   (a) Developmentally appropriate, culturally sensitive and evidence-based instruction for each grade level;
   (b) A minimum of four instructional sessions per school year, with each year's instruction building on the previous year's instruction;
   (c) Age-appropriate curriculum including role-playing, discussion, activities
and books to educate students regarding child sexual abuse prevention;
(d) Instruction providing students with the knowledge and tools to
communicate incidents of sexual abuse;
(e) Instruction regarding “safe touch,” “unsafe touch,” “safe secrets,” “unsafe
secrets,” and how to escape and report a sexual abuse situation;
(f) Techniques to recognize child sexual abuse, skills to reduce vulnerability
and encouragement to report child sexual abuse;
(g) An evaluation component with measurable outcomes;
(h) A professional training component for administrators, teachers and other
school personnel regarding communicating child sexual abuse prevention
techniques to students, effects of child sexual abuse on children, receiving
child sexual abuse reports and disclosures and mandated reporting; and
(i) A parental involvement component to inform parents about child sexual
abuse topics, including characteristics of offenders, “grooming” behaviors
and how to discuss child sexual abuse prevention with children.

(3) Program instruction may be delivered by instructors including teachers, school
counselors and outside agency prevention educators, provided the instructors have
knowledge of and training in child sexual abuse prevention.

§ 339.372. Policies of school boards on reporting of child abuse and
sexual conduct.

Each school board shall adopt policies on the reporting of abuse and sexual conduct
by school employees and the reporting of abuse by students. The policies shall:

(1) Specify that abuse and sexual conduct by school employees and abuse by
students are not tolerated;

(2) Specify that all school employees and students are subject to the policies;

(3) Require all school employees who have reasonable cause to believe that another
school employee has engaged in abuse or sexual conduct or that a student has
engaged in abuse to:
   (a) Report suspected abuse to a law enforcement agency, the Department
       of Human Services or a designee of the department as required by ORS
       419B.010 and 419B.015; and
   (b) Report suspected abuse or sexual conduct to the person designated as
       provided by subsection (4) of this section;

(4) Designate a person, and an alternate in the event the designated person is the
suspected abuser, to receive reports of suspected abuse or sexual conduct by
school employees or suspected abuse by students and specify the procedures to be
followed by that person upon receipt of a report;

(5) Require the posting in each school building of the name and contact information
for the person designated for the school building to receive reports of suspected
abuse or sexual conduct by school employees or suspected abuse by students and
the procedures the person will follow upon receipt of a report;

(6) Specify that the initiation of a report in good faith about suspected abuse or
sexual conduct may not adversely affect any terms or conditions of employment or
the work environment of the complainant;

(7) Specify that the school board or any school employee will not discipline a student
for the initiation of a report in good faith about suspected abuse or sexual conduct
by a school employee or suspected abuse by a student;
(8) Require notification by the education provider to the person who initiated the report about actions taken by the education provider based on the report; and
(9) Require the education provider to furnish to a school employee at the time of hire the following:
   (a) A description of conduct that may constitute abuse or sexual conduct; and
   (b) A description of the information and records that will be disclosed as provided by ORS 339.378 or 339.388 (8) if a report of suspected abuse or sexual conduct is substantiated.

§ 418.257. Definitions for ORS 418.257 to 418.259.

As used in ORS 418.257 to 418.259:

(1) “Abuse” means one or more of the following:
   (a) Any physical injury to a child in care caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.
   (b) Neglect of a child in care.
   (c) Abandonment, including desertion or willful forsaking of a child in care or the withdrawal or neglect of duties and obligations owed a child in care by a child-caring agency, caretaker, certified foster home, developmental disabilities residential facility or other person.
   (d) Willful infliction of physical pain or injury upon a child in care.
   (e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467 or 163.525.
   (f) Verbal abuse.
   (g) Financial exploitation.
   (h) Sexual abuse.
   (i) Involuntary seclusion of a child in care for the convenience of a child-caring agency, caretaker, certified foster home or developmental disabilities residential facility or to discipline the child in care.
   (j) A wrongful use of a physical or chemical restraint of a child in care, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

(2) “Certified foster home” means a foster home certified by the Department of Human Services and subject to ORS 418.625 to 418.645.

(3)
   (a) “Child in care” means a person under 21 years of age who is residing in or receiving care or services from:
      (A) A child-caring agency or proctor foster home subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970;
      (B) A certified foster home; or
      (C) A developmental disabilities residential facility.
   (b) “Child in care” does not include a person under 21 years of age who is residing in any of the entities listed in paragraph (a) of this subsection when the care provided is in the home of the child by the child's parent.

(4) “Child-caring agency” has the meaning given that term in ORS 418.205.

(5) “Developmental disabilities residential facility” means a residential facility or foster home for children who are 18 years of age or younger and receiving developmental disability services that is subject to ORS 443.400 to 443.455, 443.830 and 443.835.
(6) “Involuntary seclusion” means the confinement of a child in care alone in a room from which the child in care is physically prevented from leaving. “Involuntary seclusion” does not include age-appropriate discipline, including but not limited to a time-out.

(7) “Proctor foster home” has the meaning given that term in ORS 418.205.

(8) a) “Financial exploitation” means:
   (A) Wrongfully taking the assets, funds or property belonging to or intended for the use of a child in care.
   (B) Alarming a child in care by conveying a threat to wrongfully take or appropriate moneys or property of the child in care if the child would reasonably believe that the threat conveyed would be carried out.
   (C) Misappropriating, misusing or transferring without authorization any moneys from any account held jointly or singly by a child in care.
   (D) Failing to use the income or assets of a child in care effectively for the support and maintenance of the child in care.

b) “Financial exploitation” does not include age-appropriate discipline that may involve the threat to withhold, or the withholding of, privileges.

(9) “Intimidation” means compelling or deterring conduct by threat. “Intimidation” does not include age-appropriate discipline that may involve the threat to withhold privileges.

(10) “Law enforcement agency” means:
   (a) Any city or municipal police department.
   (b) Any county sheriff’s office.
   (c) The Oregon State Police.
   (d) Any district attorney.
   (e) A police department established by a university under ORS 352.121 or 353.125.

(11) “Neglect” means:
   (a) Failure to provide the care, supervision or services necessary to maintain the physical and mental health of a child in care; or
   (b) The failure of a child-caring agency, proctor foster home, certified foster home, developmental disabilities residential facility, caretaker or other person to make a reasonable effort to protect a child in care from abuse.

(12) “Services” includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of a child in care.

(13) “Sexual abuse” means:
   (a) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;
   (b) Any sexual contact between a child in care and an employee of a child-caring agency, proctor foster home, certified foster home, developmental disabilities residential facility, caretaker or other person responsible for the provision of care or services to a child in care;
   (c) Any sexual contact between a person and a child in care that is unlawful under ORS chapter 163 and not subject to a defense under that chapter; or
   (d) Any sexual contact that is achieved through force, trickery, threat or coercion.
(14) “Sexual contact” has the meaning given that term in ORS 163.305.

(15) “Sexual exploitation” means sexual exploitation as described in ORS 419B.005 (1)(a)(E).

(16) “Verbal abuse” means to threaten significant physical or emotional harm to a child in care through the use of:
   (a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or
   (b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

§ 418.258. Report of suspected abuse; notifications; investigation.

(1) When the Department of Human Services becomes aware of a report of suspected child abuse of a child in care, whether in the form of an allegation, complaint or formal report made under this section, and whether made directly to the Director of Human Services, the department or an employee of the department, to a hotline operated by the department, through the mandatory abuse reporting process set forth in ORS 419B.005 to 419B.050 or otherwise, the department shall immediately:
   (a) Notify appropriate personnel within the department, including but not limited to employees responsible for licensing, certifying or authorizing child-caring agencies, certified foster homes and developmental disabilities residential facilities.
   (b) Notify any governmental agency that has a contract with the child-caring agency, certified foster home or developmental disabilities residential facility to provide care or services to the child in care.
   (c) Commence an investigation to determine whether the report of suspected abuse is substantiated, unsubstantiated or inconclusive under ORS 418.259.
   (d) Report to a law enforcement agency any crime that the department has reason to believe has occurred with respect to a child in care or at a child-caring agency, proctor foster home, certified foster home or developmental disabilities residential facility even if the suspected crime is not related to a report of abuse made under this section.

(2) (a) As a condition for issuance or renewal of a license, certificate or authorization to a child-caring agency, certified foster home or developmental disabilities residential facility, the department shall require and verify that the child-caring agency, certified foster home or developmental disabilities residential facility has procedures and protocols that:
   (A) Require employees of the child-caring agency, a proctor foster home certified by the child-caring agency, the certified foster home or the developmental disabilities residential facility to immediately report suspected abuse of a child in care to the director, the director's designee or personnel within the department who have been specifically designated to receive reports of abuse of children in care;
   (B) Mandate that the child-caring agency, certified foster home or developmental disabilities residential facility provide an annual training and written materials that include information about the child abuse reporting hotline, and that the agency, home or facility advise and educate employees of the child-caring agency and any proctor foster home certified by the child-caring agency, of the certified foster home or of the developmental disabilities residential facility of the duty under this section and ORS 419B.005 to 419B.050
to report abuse of a child in care; and
(C) Inform employees of child-caring agencies, proctor foster homes, certified foster homes and developmental disabilities residential facilities that the duty to report abuse of a child in care is personal to the employee and that the duty is not fulfilled by reporting the abuse to the owner, operator or any other employee of the child-caring agency, proctor foster home, certified foster home or developmental disabilities residential facility even if the owner, operator or other employee reports the abuse of a child in care to the director, the director's designee or the department.

(b) A child-caring agency, certified foster home or developmental disabilities residential facility need not develop and maintain procedures and protocols or provide an annual training and written materials under paragraph (a) of this subsection if the agency, home or facility does not have any employees, staff or volunteers.

(3) Interference or hindering an investigation of abuse of a child in care, including but not limited to the intimidation of witnesses, falsification of records or denial or limitation of interviews with the child in care who is the subject of the investigation or with witnesses, may constitute grounds for the revocation, suspension or placing of conditions on the license, certificate or other authorization of a child-caring agency, proctor foster home, certified foster home or developmental disabilities residential facility.

(4)
(a) Anyone, including but not limited to an employee of a child-caring agency, proctor foster home, certified foster home or developmental disabilities residential facility, who makes a report of suspected abuse of a child in care to the Governor, the Department of Justice, the Director of Human Services, the director's designee or the department under this section in good faith and who has reasonable grounds for the making of the report shall have immunity:
(A) From any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report;
(B) From disciplinary action taken by the person's employer; and
(C) With respect to participating in any judicial proceeding resulting from or involving the report.

(b) A person making a report under this section may include references to otherwise confidential information for the sole purpose of making the report, and any such disclosure must be protected from further disclosure to other persons or entities for any other purpose not related to the making of the report.

§ 418.259. Investigation of suspected abuse; findings; notifications; reports.

(1) The investigation conducted by the Department of Human Services under ORS 418.258 must result in one of the following findings:
(a) That the report is substantiated. A report is substantiated when there is reasonable cause to believe that the abuse of a child in care occurred.
(b) That the report is unsubstantiated. A report is unsubstantiated when there is no evidence that the abuse of a child in care occurred.
(c) That the report is inconclusive. A report is inconclusive when there is some indication that the abuse occurred but there is insufficient evidence to conclude that there is reasonable cause to believe that the abuse occurred.
(2) When a report is received under ORS 418.258 alleging that a child in care may have been subjected to abuse, the department shall notify the case managers for the child, the attorney for the child, the child's court-appointed special advocate, the parents or guardians of the child, any attorney representing a parent or guardian of the child and any governmental agency that has a contract with the child-caring agency or developmental disabilities residential facility to provide care or services to the child that a report has been received.

(3) The department may interview the child in care who is the subject of suspected abuse and witnesses without the presence of employees of the child-caring agency, proctor foster home or developmental disabilities residential facility, the provider of services at a certified foster home or department personnel. The department shall inform the child in care that the child may have the child's parent or guardian, if the child has not been committed to the custody of the department or the Oregon Youth Authority, or attorney present when participating in an interview conducted in the course of an abuse investigation.

(4) The department shall notify the following when a report of abuse is substantiated:
   (a) The Director of Human Services.
   (b) Personnel in the department responsible for the licensing, certificate or authorization of child-caring agencies.
   (c) The department's lead personnel in that part of the department that is responsible for child welfare generally.
   (d) With respect to the child in care who is the subject of the abuse report and investigation, the case managers for the child, the attorney for the child, the child's court-appointed special advocate, the parents or guardians of the child, any attorney representing a parent or guardian of the child and any governmental agency that has a contract with the child-caring agency to provide care or services to the child.
   (e) The parents or guardians of the child in care who is the subject of the abuse report and investigation if the child in care has not been committed to the custody of the department or the youth authority. Notification under this paragraph may not include any details or information other than that a report of abuse has been substantiated.
   (f) Any governmental agency that has a contract with the child-caring agency to provide care or services to a child in care.
   (g) The local citizen review board established by the Judicial Department under ORS 419A.090.

(5) The department shall report on a quarterly basis to the interim legislative committees on child welfare for the purposes of public review and oversight of the quality and safety of child-caring agencies, certified foster homes and developmental disabilities residential facilities that are licensed, certified or authorized by the department in this state and of proctor foster homes that are certified by the child-caring agencies. Information provided in reports under this subsection may not contain the name or any identifying information of a child in care but must contain all of the following:
   (a) The name of any child-caring agency, proctor foster home or developmental disabilities residential facility, or, provided there are five or more certified foster homes in the county, the name of the county where a certified foster home is located, where the department conducted an investigation pursuant to ORS 418.258 that resulted in a finding that the report of abuse was substantiated during that quarter;
   (b) The approximate date that the abuse occurred;
   (c) The nature of the abuse and a brief narrative description of the abuse that occurred;
   (d) Whether physical injury, sexual abuse or death resulted from the abuse; and
(e) Corrective actions taken or ordered by the department and the outcome of the corrective actions.

(6) In compiling records, reports and other information during an investigation under ORS 418.258 (1) and in issuing findings, letters of concern or reprimands, the Director of Human Services or the director's designee and the department may not refer to the employee, person or entity that is the subject of the investigation as an "alleged perpetrator" but must refer to the employee, person or entity as the "respondent."

§ 418.702. Training and continuing education for mandatory reporters; notice to persons required to report child abuse.

(1) The Department of Human Services shall implement a training and continuing education curriculum for persons other than law enforcement officers required by law to investigate allegations of child abuse. The curriculum shall address the areas of training and education necessary to facilitate the skills necessary to investigate reports of child abuse and shall include but not be limited to:
   (a) Assessment of risk to the child;
   (b) Dynamics of child abuse, child sexual abuse and rape of children; and
   (c) Legally sound and age appropriate interview and investigatory techniques.

(2) The Oregon State Bar and each board that licenses, certifies or registers public and private officials required to report child abuse under ORS 419B.010 shall identify those persons regulated by the board who in their official capacity have regular and on-going contact with children and shall notify those persons every two years of their duty to report child abuse. Such notice shall contain what the person is required to report and where such report shall be made and also advise of the symptoms to look for and provide a contact number for further information.

(3) The department shall develop content of the notice for such a mailing. The cost of distribution shall be paid by the board.

(4) The department shall develop and make available, at cost, training materials that may be used at training conferences and other similar events involving such public and private officials, as defined in ORS 419B.005.

§ 419B.005. Definitions.

As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1) "Abuse" means:
   (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.
   (B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.
   (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.
   (D) Sexual abuse, as described in ORS chapter 163.
(E) Sexual exploitation, including but not limited to:
   (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and
   (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a substantial risk of harm to the child's health or safety.

(b) “Abuse” does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) “Child” means an unmarried person who:
   (a) Is under 18 years of age; or
   (b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency as that term is defined in ORS 418.205.

(3) “Higher education institution” means:
   (a) A community college as defined in ORS 341.005;
   (b) A public university listed in ORS 352.002;
   (c) The Oregon Health and Science University; and
   (d) A private institution of higher education located in Oregon.

(4) “Law enforcement agency” means:
   (a) A city or municipal police department.
   (b) A county sheriff's office.
   (c) The Oregon State Police.
   (d) A police department established by a university under ORS 352.121 or 353.125.
   (e) A county juvenile department.

(5) “Public or private official” means:
   (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.
(b) Dentist.
(c) School employee, including an employee of a higher education institution.
(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide or employee of an in-home health service.
(e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
(f) Peace officer.
(g) Psychologist.
(h) Member of the clergy.
(i) Regulated social worker.
(j) Optometrist.
(k) Chiropractor.
(l) Certified provider of foster care, or an employee thereof.
(m) Attorney.
(n) Licensed professional counselor.
(o) Licensed marriage and family therapist.
(p) Firefighter or emergency medical services provider.
(q) A court appointed special advocate, as defined in ORS 419A.004.
(r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
(s) Member of the Legislative Assembly.
(t) Physical, speech or occupational therapist.
(u) Audiologist.
(v) Speech-language pathologist.
(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
(x) Pharmacist.
(y) An operator of a preschool recorded program under ORS 329A.255.
(z) An operator of a school-age recorded program under ORS 329A.257.
(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
(bb) Employee of a public or private organization providing child-related services or activities:
   (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
   (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
(dd) Personal support worker, as defined by rule adopted by the Home Care Commission.
(ee) Home care worker, as defined in ORS 410.600.

§ 419B.010. Duty of officials to report child abuse; exception; violations.

(1) Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report
or cause a report to be made in the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6) affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member of the clergy, attorney or guardian ad litem appointed under ORS 419B.231 is not required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295 or 419B.234 (6). An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.

(2) Notwithstanding subsection (1) of this section, a report need not be made under this section if the public or private official acquires information relating to abuse by reason of a report made under this section, or by reason of a proceeding arising out of a report made under this section, and the public or private official reasonably believes that the information is already known by a law enforcement agency or the Department of Human Services.

(3) The duty to report under this section is personal to the public or private official alone, regardless of whether the official is employed by, a volunteer of or a representative or agent for any type of entity or organization that employs persons or uses persons as volunteers who are public or private officials in its operations.

(4) The duty to report under this section exists regardless of whether the entity or organization that employs the public or private official or uses the official as a volunteer has its own procedures or policies for reporting abuse internally within the entity or organization.

(5) A person who violates subsection (1) of this section commits a Class A violation. Prosecution under this subsection shall be commenced at any time within 18 months after commission of the offense.

§ 419B.015. Report form and content; notice.

(1)
(a) A person making a report of child abuse, whether the report is made voluntarily or is required by ORS 419B.010, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the department or to a law enforcement agency within the county where the person making the report is located at the time of the contact. The report shall contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child’s age, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.
(b) When a report of child abuse is received by the department, the department shall notify a law enforcement agency within the county where the report was made. When a report of child abuse is received by a designee of the department, the designee shall notify, according to the contract, either the department or a law enforcement agency within the county where the report was made. When a report of child abuse is received by a law enforcement agency, the agency shall notify the local office of the department within the county where the report was made.
(c) When a report of child abuse is received by the department or by a law enforcement agency, the department or law enforcement agency, or both, may collect information concerning the military status of the parent.
or guardian of the child who is the subject of the report and may share
the information with the appropriate military authorities. Disclosure of
information under this paragraph is subject to ORS 419B.035 (7).

(2) When a report of child abuse is received under subsection (1)(a) of this section, the
entity receiving the report shall make the notification required by subsection (1)(b) of
this section according to rules adopted by the department under ORS 419B.017.

(3)
(a) When a report alleging that a child or ward in substitute care may have
been subjected to abuse is received by the department, the department
shall notify the attorney for the child or ward, the child's or ward's court
appointed special advocate, the parents of the child or ward and any
attorney representing a parent of the child or ward that a report has been
received.
(b) The name and address of and other identifying information about the
person who made the report may not be disclosed under this subsection.
Any person or entity to whom notification is made under this subsection
may not release any information not authorized by this subsection.
(c) The department shall make the notification required by this subsection
within three business days of receiving the report of abuse.
(d) Notwithstanding the obligation imposed by this subsection, the
department is not required under this subsection to notify the parent or
parent's attorney that a report of abuse has been received if the notification
may interfere with an investigation or assessment or jeopardize the child's or
ward's safety.


(1) A person commits the offense of making a false report of child abuse if, with the
intent to influence a custody, parenting time, visitation or child support decision, the
person:
   (a) Makes a false report of child abuse to the Department of Human Services
       or a law enforcement agency, knowing that the report is false; or
   (b) With the intent that a public or private official make a report of child
       abuse to the Department of Human Services or a law enforcement agency,
       makes a false report of child abuse to the public or private official, knowing
       that the report is false.

(2) Making a false report of child abuse is a Class A violation.

§ 419B.025. Duty of department or law enforcement agency receiving
report; investigation; notice to parents; physical examinations; child's
consent; notice at conclusion of investigation.

(1) If the Department of Human Services or a law enforcement agency receives a
report of child abuse, the department or the agency shall immediately:
   (a) Cause an investigation to be made to determine the nature and cause of
       the abuse of the child; and
   (b) Notify the Office of Child Care if the alleged child abuse occurred in a
       child care facility as defined in ORS 329A.250.

(2) If the abuse reported in subsection (1) of this section is alleged to have occurred at
a child care facility:
   (a) The department and the law enforcement agency shall jointly determine
the roles and responsibilities of the department and the agency in their respective investigations; and
(b) The department and the agency shall each report the outcomes of their investigations to the Office of Child Care.

(3) If the law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify by oral report followed by written report the local office of the department. The department shall provide protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard the child's welfare.

(4) If a child is taken into protective custody by the department, the department shall promptly make reasonable efforts to ascertain the name and address of the child's parents or guardian.

(5)
(a) If a child is taken into protective custody by the department or a law enforcement official, the department or law enforcement official shall, if possible, make reasonable efforts to advise the parents or guardian immediately, regardless of the time of day, that the child has been taken into custody, the reasons the child has been taken into custody and general information about the child's placement, and the telephone number of the local office of the department and any after-hours telephone numbers.
(b) Notice may be given by any means reasonably certain of notifying the parents or guardian, including but not limited to written, telephonic or in-person oral notification. If the initial notification is not in writing, the information required by paragraph (a) of this subsection also shall be provided to the parents or guardian in writing as soon as possible.
(c) The department also shall make a reasonable effort to notify the noncustodial parent of the information required by paragraph (a) of this subsection in a timely manner.
(d) If a child is taken into custody while under the care and supervision of a person or organization other than the parent, the department, if possible, shall immediately notify the person or organization that the child has been taken into protective custody.

(6) If a law enforcement officer or the department, when taking a child into protective custody, has reasonable cause to believe that the child has been affected by sexual abuse and rape of a child as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely to disappear, the court may authorize a physical examination for the purposes of preserving evidence if the court finds that it is in the best interest of the child to have such an examination. Nothing in this section affects the authority of the department to consent to physical examinations of the child at other times.

(7) A minor child of 12 years of age or older may refuse to consent to the examination described in subsection (6) of this section. The examination shall be conducted by or under the supervision of a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to 677.525, a naturopathic physician licensed under ORS chapter 685 or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable, trained in conducting such examinations.

(8) When the department completes an investigation under this section, if the person who made the report of child abuse provided contact information to the department, the department shall notify the person about whether contact with the child was made, whether the department determined that child abuse occurred and whether services will be provided. The department is not required to disclose information
under this subsection if the department determines that disclosure is not permitted under ORS 419B.035.

§ 419B.025. Immunity from liability for good faith reports.

Anyone participating in good faith in the making of a report of child abuse and who has reasonable grounds for the making thereof shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report.

§ 419B.035. Confidentiality of records; when available to others.

(1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;
(b) Any physician, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant, naturopathic physician or nurse practitioner, regarding any child brought to the physician, physician assistant, naturopathic physician or nurse practitioner or coming before the physician, physician assistant, naturopathic physician or nurse practitioner for examination, care or treatment;
(c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;
(d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;
(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;
(f) The Office of Child Care for certifying, registering or otherwise regulating child care facilities;
(g) The Office of Children's Advocate;
(h) The Teacher Standards and Practices Commission for investigations conducted under ORS 342.176 involving any child or any student in grade 12 or below;
(i) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.311 to 192.478;
(j) The Office of Child Care for purposes of ORS 329A.030 (10)(g), (h) and (i); and
(k) With respect to a report of abuse occurring at a school or in an educational setting that involves a child with a disability, Disability Rights Oregon.
(2) When disclosing reports and records pursuant to subsection (1)(i) of this section, the Department of Human Services may exempt from disclosure the names, addresses and other identifying information about other children, witnesses, victims or other persons named in the report or record if the department determines, in written findings, that the safety or well-being of a person named in the report or record may be jeopardized by disclosure of the names, addresses or other identifying information, and if that concern outweighs the public's interest in the disclosure of that information.

(b) If the Department of Human Services does not have a report or record of abuse regarding a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015, the department may disclose that information.

(3) The Department of Human Services may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this section. The name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

(4) A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect or necessary to determine a claim for crime victim compensation under ORS 147.005 to 147.367.

(5) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (6)(b) of this section.

(6) Any record made available to a law enforcement agency or community corrections agency in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Supervision or to a physician, physician assistant, naturopathic physician or nurse practitioner in this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board, physician, physician assistant, naturopathic physician or nurse practitioner. Any record or report disclosed
by the Department of Human Services to other persons or entities pursuant to subsections (1) and (3) of this section shall be kept confidential.

(b) Notwithstanding paragraph (a) of this subsection:

(A) A law enforcement agency, a community corrections agency, the Department of Corrections and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (5) of this section to each other, to law enforcement, community corrections, corrections and parole agencies of other states and to authorized treatment providers for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

(B) A person may disclose records made available to the person under subsection (1)(i) of this section if the records are disclosed for the purpose of advancing the public interest.

(7) An officer or employee of the Department of Human Services or of a law enforcement agency or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section may not release any information not authorized by subsections (1) to (6) of this section.

(8) As used in this section, “law enforcement agency” has the meaning given that term in ORS 181A.010.

(9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

§ 419B.040. Certain privileges not grounds for excluding evidence in court proceedings on child abuse.

(1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, including the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended to nurses, to staff members of schools and to regulated social workers and the spousal privilege, shall not be a ground for excluding evidence regarding a child's abuse, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to 419B.050.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to 419B.050, either spouse shall be a competent and compellable witness against the other.

§ 419B.050. Authority of health care provider to disclose information; immunity from liability.

(1) Upon notice by a law enforcement agency, the Department of Human Services, a member agency of a county multidisciplinary child abuse team or a member of a county multidisciplinary child abuse team that a child abuse investigation is being conducted under ORS 419B.020, a health care provider must permit the law enforcement agency, the department, the member agency of the county multidisciplinary child abuse team or the member of the county multidisciplinary child abuse team to inspect and copy medical records, including, but not limited to, prenatal and birth records, of the child involved in the investigation without the consent of the child, or the parent or guardian of the child. A health care provider who in good faith disclosed medical records under this section is not civilly or
criminal liability for the disclosure.

(2) As used in this section, “health care provider” has the meaning given that term in ORS 192.556.
23 § 6305 Electronic reporting.

(a) Departmental procedures. The department shall establish procedures for the secure and confidential use of electronic technologies to transmit information under this chapter, including:
   (1) the filing of reports and other required records, including those of the county agency; and
   (2) the verification of records and signatures on forms.

(b) Confirmation of reports. A confirmation by the department of the receipt of a report of suspected child abuse submitted electronically shall relieve the person making the report of making an additional oral or written report of suspected child abuse, subject to section 6313 (relating to reporting procedure).

(c) Effect on other law. Nothing in this chapter shall be construed to supersede the act of December 16, 1999 (P.L.971, No.69), known as the Electronic Transactions Act. Any procedures developed by the department under this section shall comply with all applicable Federal and State laws regarding confidentiality of personally identifiable information.

23 § 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), [FN1] 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.

23 § 6311.1.1. 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.

23 § 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.

23 § 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), (d) Repealed by 2014, April 15, P.L. 417, No. 33, § 2, effective Dec. 31, 2014.

(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.

23 § 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).

23 § 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.
(6) By an emergency services provider on the grounds of an entity that employs or otherwise provides access to the emergency services provider 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 ensure 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).

23 § 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.

23 § 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.

23 § 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.
23 § 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.

23 § 6332 Establishment of statewide toll-free telephone number.

(a) General rule. The department shall establish a single statewide toll-free telephone number that all persons, whether mandated by law or not, may use to report cases of suspected child abuse or children allegedly in need of general protective services. A county agency or law enforcement official shall use the statewide toll-free telephone number or electronic technologies for determining the existence of reports of child abuse or general protective services reports in the statewide database or reports under investigation.

(b) Limitation on use. A county agency may only request and receive information pursuant to this subsection either on its own behalf because it has received a report of suspected child abuse or on behalf of a physician examining or treating a child or on behalf of the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated, where the physician or the director or a person specifically designated in writing by the director suspects the child of being an abused child.

23 § 6339. Confidentiality of reports.

Except as otherwise provided in this subchapter or by the Pennsylvania Rules of Juvenile Court Procedure, reports made pursuant to this chapter, including, but not limited to, report summaries of child abuse and reports made pursuant to section 6313 (relating to reporting procedure) as well as any other information obtained, reports written or photographs or X-rays taken concerning alleged instances of child abuse in the possession of the department or a county agency shall be confidential.
23 § 6340. Release of information in confidential reports.

(a) General rule. Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

(1) An authorized official of a county agency, of a Federal agency that has a need for such information to carry out its responsibilities under law to protect children from abuse and neglect or of an agency of another state that performs protective services analogous to those services performed by county agencies or the department in the course of the official's duties, multidisciplinary team members assigned to the case and duly authorized persons providing services pursuant to section 6370(a) (relating to voluntary or court-ordered services; findings of child abuse).

(2) A physician examining or treating a child or the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated when the physician or the director or the designee of the director suspects the child of being an abused child or a child alleged to be in need of protection under this chapter.

(3) A guardian ad litem or court designated advocate for the child.

(4) An authorized official or agent of the department in accordance with department regulations or in accordance with the conduct of a performance audit as authorized by section 6343 (relating to investigating performance of county agency).

(5) A court of competent jurisdiction, including a magisterial district judge, a judge of the Philadelphia Municipal Court and a judge of the Pittsburgh Magistrates Court, pursuant to court order or subpoena in a criminal matter involving a charge of child abuse under section 6303(b) (relating to definitions). Disclosure through testimony shall be subject to the restrictions of subsection (c).

(5.1) A court of common pleas in connection with any matter involving custody of a child as set forth in sections 5328 (relating to factors to consider when awarding custody) and 5329.1 (relating to consideration of child abuse and involvement with protective services).

(6) A standing committee of the General Assembly, as specified in section 6384 (relating to legislative oversight).

(7) The Attorney General.

(8) Federal auditors if required for Federal financial participation in funding of agencies except that Federal auditors may not remove identifiable reports or copies thereof from the department or county agencies.

(9) Law enforcement officials of any jurisdiction, as long as the information is relevant in the course of investigating cases of:

(i) Homicide or other criminal offense set forth in section 6344(c) (relating to employees having contact with children; adoptive and foster parents), sexual abuse or exploitation, bodily injury or serious bodily injury caused by a perpetrator or nonperpetrator.

(ii) Child abuse other than that identified under subparagraph (i) by a nonperpetrator.

(iii) Repeated physical injury to a child under circumstances which indicate that the child's health, safety or welfare is harmed or threatened.

(iv) A missing child report.

(v) Severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).

(10) The district attorney's office or other law enforcement official, as set forth in county protocols for multidisciplinary investigative teams required
in section 6365(c) (relating to services for prevention, investigation and treatment of child abuse), shall receive, immediately after the county agency has ensured the safety of the child, reports of abuse according to regulations, from the department or county agency in which the initial report of suspected child abuse or initial inquiry into the report gives evidence that the abuse is:

(i) a criminal offense set forth under section 6344.3 (relating to grounds for denying employment or participation in program, activity or service), not including an offense under 18 Pa.C.S. § 4304 (relating to endangering welfare of children) or an equivalent crime under Federal law or law of another state;
(ii) child abuse under section 6334.1 (relating to responsibility for investigation).

(11) Designated county officials, in reviewing the competence of the county agency or its employees pursuant to this chapter. Officials under this paragraph are limited to the following:

(i) The board of commissioners in counties other than counties of the first class.
(ii) Mayor in a city of the first class under the act of April 21, 1949 (P.L. 665, No. 155), known as the First Class City Home Rule Act.
(iii) An individual serving as a county chief executive as designated by a county home rule charter or optional plan form of government pursuant to the act of April 13, 1972 (P.L. 184, No. 62), known as the Home Rule Charter and Optional Plans Law.

(12) A mandated reporter of suspected child abuse under section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child shall be limited to the following:

(i) Whether the child abuse report is indicated, founded or unfounded.
(ii) Any services provided, arranged for or to be provided by the county agency to protect the child.

(13) School administrators and child-care service employers, as provided under this paragraph. The following shall apply:

(i) If the alleged perpetrator is a school employee or child-care service employee, school administrators and child-care service employers shall receive notice of a pending allegation and the final status of the report following the investigation as to whether the report is indicated, founded or unfounded.
(ii) Information disclosed pursuant to this paragraph shall be provided to the school administrator or child-care service employer within ten days of the completion of the investigation.
(iii) If the perpetrator is a school employee, the notice of the final status of the report shall be sent to the Department of Education within ten days of the completion of the investigation.

(14) A prospective adoptive parent, approved by an adoption agency, when considering adopting an abused child in the custody of a county agency. The county agency having custody of the child and the adoption agency shall determine the scope and detail of information which must be provided so that the prospective parent may make an informed decision to adopt.

(15) Appropriate officials of another county or state regarding an investigation related to child abuse or protective services when a family has moved to that county or state. Reports under this paragraph shall include general protective service reports and related information. Reports and information under this paragraph shall be provided within seven calendar days. The department shall promulgate regulations as necessary to carry out the purposes of this paragraph.

(16) Members of citizen review panels convened pursuant to section
6343.1 (relating to citizen review panels), provided that such members shall not disclose to any person or government official any identifying information about any specific child protective services case with respect to which the panel is provided information.

(17) A member of a child fatality or near fatality review team under section 6365(d).

(18) The Department of the Auditor General in conjunction with the performances of the duties designated to the Office of Auditor General, except that the Auditor General may not remove identifiable reports or copies thereof from the department or county agency.

(b) Release of information to subject. Upon a written request, a subject of a report may receive a copy of all information, except that prohibited from being disclosed by subsection (c), contained in the Statewide database or in any report filed pursuant to section 6313 (relating to reporting procedure).

(c) Protecting identity. Except for reports under subsection (a)(9) and (10) and in response to a law enforcement official investigating allegations of false reports under 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse), the release of data by the department, county, institution, school, facility or agency or designated agent of the person in charge that would identify the person who made a report of suspected child abuse or who cooperated in a subsequent investigation is prohibited. Law enforcement officials shall treat all reporting sources as confidential informants.

(d) Exclusion of information. Except as provided under section 6341(c.2)(4) (relating to amendment or expunction of information), information maintained in the Statewide database obtained from an investigating agency in relation to an appeal request shall not be released to any person except a department official. Information in the Statewide database or a confidential report provided under section 6341(c.2) (4) shall be subject to subsection (c).

23 § 6383. Education and training.

(a) Duties of department and county agencies. The department and each county agency, both jointly and individually, shall conduct a continuing publicity and education program for the citizens of this Commonwealth aimed at the prevention of child abuse and child neglect, including the prevention of newborn abandonment, the identification of abused and neglected children and the provision of necessary ameliorative services to abused and neglected children and their families. The department and each county agency shall conduct an ongoing training and education program for local staff, persons required to make reports and other appropriate persons in order to familiarize those persons with the reporting and investigative procedures for cases of suspected child abuse and the rehabilitative services that are available to children and families. In addition, the department shall, by regulation, establish a program of training and certification for persons classified as protective services workers. The regulations shall provide for the grandfathering of all current permanent protective services workers as certified protective services workers. Upon request by the county agency and approval of the department, the agency may conduct the training of the county's protective services workers.

(a.1) Study by department. The department shall conduct a study to determine the extent of the reporting of suspected child abuse in this Commonwealth where the reports upon investigation are determined to be unfounded and to be knowingly false and maliciously reported or it is believed that a minor was persuaded to make or substantiate a false and malicious report. The department shall submit the report to the Governor, General Assembly and Attorney General no later than June 1, 1996. The report shall include the department's findings and recommendations on
how to reduce the incidence of knowingly false and malicious reporting.

(a.2) Information for mandated and permissive reporters.--

(1) In addition to the requirements of subsection (a), the department shall provide specific information related to the recognition and reporting of child abuse on its Internet website in forms, including, but not limited to, the following:

(i) Website content.
(ii) Printable booklets and brochures.
(iii) Educational videos.
(iv) Internet-based interactive training exercises.

(2) Information shall be pertinent to both mandated and permissive reporters and shall address topics, including, but not limited to:

(i) Conduct constituting child abuse under this chapter.
(ii) Persons classified as mandated reporters.
(iii) Reporting requirements and procedures.
(iv) The basis for making a report of suspected child abuse.
(v) Penalties for failure to report.
(vi) Background clearance requirements for individuals who work or volunteer with children.
(vii) Recognition of the signs and symptoms of child abuse.
(viii) Alternative resources to assist with concerns not related to child abuse.

(3) The department shall include the following with all certifications provided pursuant to section 6344(b)(2) (relating to employees having contact with children; adoptive and foster parents):

(i) Information that certain persons are required by law to report suspected child abuse.
(ii) The Internet address where the information and guidance required by this subsection can be obtained.
(iii) A telephone number and mailing address where guidance materials can be requested by individuals who cannot access the department's Internet website.

(4) The department shall implement this subsection within 180 days of the effective date of this subsection.

(b) Duties of Department of State.

(1) The Department of State shall make training and educational programs and materials available for all professional licensing boards whose licensees are charged with responsibilities for reporting child abuse under this chapter with a program of distributing educational materials to all licensees.

(2) Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall promulgate regulations within one year of the effective date of this subsection on the responsibilities of mandated reporters. These regulations shall clarify that the provisions of this chapter take precedence over any professional standard that might otherwise apply in order to protect children from abuse.

(3) Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall:

(i) Require all persons applying for a license or certification issued by the licensing board to submit documentation acceptable to the licensing board of the completion of at least three hours of approved child abuse recognition and reporting training. Training shall address, but shall not be limited to, recognition of the signs of child abuse and the reporting requirements for suspected child abuse in this Commonwealth. Training shall be approved by the department. The training may occur as part of the continuing education requirement of the license.
(ii) Require all persons applying for the renewal of a license or
certification issued by the licensing board to submit documentation acceptable to the licensing board of the completion of at least two hours of approved continuing education per licensure cycle. Continuing education shall address, but shall not be limited to, recognition of the signs of child abuse and the reporting requirements for suspected child abuse in this Commonwealth. Continuing education curricula shall be approved by the licensing board in consultation with the department. The two hours of continuing education on child abuse recognition and reporting shall be completed by each licensee as a portion of the total continuing education required for biennial license renewal.

(4) A licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter may exempt an applicant or licensee from the training or continuing education required by paragraph (3) if all of the following apply:

(i) The applicant or licensee submits documentation acceptable to the licensing board that the person has already completed child abuse recognition training.
(ii) The training was:
   (A) required by section 1205.6 of the act of March 10, 1949 (P.L. 30, No. 14), known as the Public School Code of 1949, and the training program was approved by the Department of Education in consultation with the department; or
   (B) required by the act of June 13, 1967 (P.L. 31, No. 21), [FN3] known as the Public Welfare Code, and the training program was approved by the department.
(iii) The amount of training received equals or exceeds the amount of training or continuing education required by paragraph (3).

(5) Upon biennial renewal of a license, a licensing board shall provide to professional licensees under its jurisdiction identified as mandated reporters information related to mandatory reporting of child abuse and the reporting requirements of licensees.

(6) A professional licensee identified as a mandated reporter may apply to the licensing board with jurisdiction over the licensee for an exemption from the training or continuing education required by paragraph (3). A licensing board may exempt the licensee if the licensee submits documentation acceptable to the licensing board that the licensee should not be subject to the training or continuing education requirement.

(c) Training of persons subject to department regulation.

(1) The following persons shall be required to meet the child abuse recognition and reporting training requirements of this subsection:

(i) Operators of institutions, facilities or agencies which care for children and are subject to supervision by the department under Article IX of the Public Welfare Code, [FN4] and their employees who have direct contact with children.
(ii) Foster parents.
(iii) Operators of facilities and agencies which care for children and are subject to licensure by the department under Article X of the Public Welfare Code [FN5] and their employees who have direct contact with children.
(iv) Caregivers in family child-care homes which are subject to licensure by the department under Article X of the Public Welfare Code and their employees who have direct contact with children.
(v) The adult family member who is a person responsible for the child's welfare and is providing services to a child in a family living home, a community home for individuals with an intellectual disability or a host home which is subject to supervision or licensure.
(2) Within six months of the effective date of this subsection, operators and caregivers shall receive three hours of training prior to the issuance of a license or approval certificate and three hours of training every five years thereafter.

(3) Employees who have direct contact with children and foster parents shall receive three hours of training within six months of the issuance of a license or approval certificate and three hours of training every five years thereafter. New employees and new foster parents shall receive three hours of training within 90 days of hire or approval as a foster parent and three hours of training every five years thereafter.

(4) Training curriculum shall be approved by the department and shall address, but not be limited to, the following:

(i) Recognition of the signs of abuse and reporting requirements for suspected abuse in this Commonwealth.

(ii) For institutions, facilities and agencies under paragraph (1)(i), their policies related to reporting of suspected abuse.

(5) A person may be exempted from the requirements of this subsection if all of the following apply:

(i) The person provides documentation that the person has already completed child abuse recognition and reporting training.

(ii) The training was:

(A) required by section 1205.6 of the Public School Code of 1949, and the training program was approved by the Department of Education in consultation with the department; or

(B) required by this chapter and the training program was approved by the department.

(iii) The amount of training received equals or exceeds the amount of training required by this subsection.

(d) Definitions.
As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

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

“Operator.” An executive or facility director. The term does not include a person who is not involved in managerial decisions related to the provision of services for or care of children with regard to any of the following:

(1) Personnel.

(2) Policy and procedures.

(3) Regulatory compliance.

(4) Services related to the general or medical care of children.

(5) Supervision of children.

(6) Safety of children.

23 § 6386 Mandatory reporting of children under one year of age.

(a) When report to be made.--A health care provider shall immediately make a report or cause a report to be made to the appropriate county agency if the provider is involved in the delivery or care of a child under one year of age who is born and identified as being affected by any of the following:

(1) Illegal substance abuse by the child's mother.

(2) Withdrawal symptoms resulting from prenatal drug exposure unless the child's mother, during the pregnancy, was:

(i) under the care of a prescribing medical professional; and
(ii) in compliance with the directions for the administration of a prescription drug as directed by the prescribing medical professional.

(3) A Fetal Alcohol Spectrum Disorder.

(b) Safety or risk assessment.--The county agency shall perform a safety assessment or risk assessment, or both, for the child and determine whether child protective services or general protective services are warranted.

(c) County agency duties.--Upon receipt of a report under this section, the county agency for the county where the child resides shall:

(1) Immediately ensure the safety of the child and see the child immediately if emergency protective custody is required or has been or shall be taken or if it cannot be determined from the report whether emergency protective custody is needed.

(2) Physically see the child within 48 hours of receipt of the report.

(3) Contact the parents of the child within 24 hours of receipt of the report.

(4) Provide or arrange reasonable services to ensure the child is provided with proper parental care, control and supervision.

18 § 4304 Endangering welfare of children.

(a) Offense defined.

(1) A parent, guardian or other person supervising the welfare of a child under 18 years of age, or a person that employs or supervises such a person, commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection or support.

(2) A person commits an offense if the person, in an official capacity, prevents or interferes with the making of a report of suspected child abuse under 23 Pa.C.S. Ch. 63 (relating to child protective services).

(3) As used in this subsection, the term “person supervising the welfare of a child” means a person other than a parent or guardian that provides care, education, training or control of a child.

(b) Grading.

(1) Except as provided under paragraph (2), the following apply:

(i) An offense under this section constitutes a misdemeanor of the first degree.

(ii) If the actor engaged in a course of conduct of endangering the welfare of a child, the offense constitutes a felony of the third degree.

(iii) If, in the commission of the offense under subsection (a)(1), the actor created a substantial risk of death or serious bodily injury, the offense constitutes a felony of the third degree.

(iv) If the actor’s conduct under subsection (a)(1) created a substantial risk of death or serious bodily injury and was part of a course of conduct, the offense constitutes a felony of the second degree.

(2) The grading of an offense under this section shall be increased one grade if, at the time of the commission of the offense, the child was under six years of age.

(c) Counseling. A court shall consider ordering an individual convicted of an offense under this section to undergo counseling.

18 § 4906.1 False reports of child abuse.
A person commits a misdemeanor of the second degree if the person intentionally or knowingly makes a false report of child abuse under 23 Pa.C.S. Ch. 63 (relating to child protective services) or intentionally or knowingly induces a child to make a false claim of child abuse under 23 Pa.C.S. Ch. 63.

18 § 4958 Intimidation, retaliation or obstruction in child abuse cases.  

(a) Intimidation.--A person commits an offense if:

(1) The person has knowledge or intends that the person's conduct under paragraph (2) will obstruct, impede, impair, prevent or interfere with the making of a child abuse report or the conducting of an investigation into suspected child abuse under 23 Pa.C.S. Ch. 63 (relating to child protective services) or prosecuting a child abuse case.

(2) The person intimidates or attempts to intimidate any reporter, victim or witness to engage in any of the following actions:

(i) Refrain from making a report of suspected child abuse or not cause a report of suspected child abuse to be made.
(ii) Refrain from providing or withholding information, documentation, testimony or evidence to any person regarding a child abuse investigation or proceeding.
(iii) Give false or misleading information, documentation, testimony or evidence to any person regarding a child abuse investigation or proceeding.
(iv) Elude, evade or ignore any request or legal process summoning the reporter, victim or witness to appear to testify or supply evidence regarding a child abuse investigation or proceeding.
(v) Fail to appear at or participate in a child abuse proceeding or meeting involving a child abuse investigation to which the reporter, victim or witness has been legally summoned.

(b) Retaliation.--A person commits an offense if the person harms another person by any unlawful act or engages in a course of conduct or repeatedly commits acts which threaten another person in retaliation for anything that the other person has lawfully done in the capacity of a reporter, witness or victim of child abuse.

(b.1) Obstruction.--In addition to any other penalty provided by law, a person commits an offense if, with intent to prevent a public servant from investigating or prosecuting a report of child abuse under 23 Pa.C.S. Ch. 63, the person by any scheme or device or in any other manner obstructs, interferes with, impedes or perverts the investigation or prosecution of child abuse.

(c) Grading.--

(1) An offense under this section is a felony of the second degree if:

(i) The actor employs force, violence or deception or threatens to employ force, violence or deception upon the reporter, witness or victim or, with reckless intent or knowledge, upon any other person.
(ii) The actor offers pecuniary or other benefit to the reporter, witness or victim.
(iii) The actor's conduct is in furtherance of a conspiracy to intimidate or retaliate against the reporter, witness or victim.
(iv) The actor accepts, agrees or solicits another person to accept any pecuniary benefit to intimidate or retaliate against the reporter, witness or victim.
(v) The actor has suffered a prior conviction for a violation of this section or has been convicted under a Federal statute or statute of any other state of an act which would be a violation of this section if
committed in this Commonwealth.

(2) An offense not otherwise addressed in paragraph (1) is a misdemeanor of the second degree.

(d) Definitions.--The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Child abuse.” As defined in 23 Pa.C.S. § 6303(b.1) (relating to definitions).

“Mandated reporter.” As defined 23 Pa.C.S. § 6303(b)(b.1).

“Public servant.” As defined in 18 Pa.C.S. § 4501 (relating to definitions).

“Reporter.” A person, including a mandated reporter, having reasonable cause to suspect that a child under 18 years of age is a victim of child abuse.
R.I. Gen. Laws § 40-11-3

(a) Any person who has reasonable cause to know or suspect that any child has been abused or neglected as defined in § 40-11-2 or has been a victim of sexual abuse by another child shall, within twenty-four (24) hours, transfer that information to the department of children, youth and families or its agent who shall cause the report to be investigated immediately. As a result of those reports and referrals, protective social services shall be made available to those children in an effort to safeguard and enhance the welfare of those children and to provide a means to prevent further abuse or neglect. The department shall establish and implement a single, statewide, toll-free telephone to operate twenty-four (24) hours per day, seven (7) days per week for the receipt of reports concerning child abuse and neglect, which reports shall be electronically recorded and placed in the central registry established by § 42-72-7. The electronically recorded records, properly indexed by date and other essential identifying data, shall be maintained for a minimum of three (3) years; provided, however, any person who has been reported for child abuse and/or neglect and who has been determined not to have neglected and/or abused a child, shall have his or her record expunged as to that incident three (3) years after that determination. The department shall continuously maintain a management information database which includes all of the information required to implement this section, including the number of cases reported by hospitals, health care centers, emergency rooms and other appropriate health care facilities.

(b) The reporting shall include immediate notification of the department of any instance where parents of an infant have requested deprivation of nutrition that is necessary to sustain life and/or who have requested deprivation of medical or surgical intervention that is necessary to remedy or ameliorate a life threatening medical condition, if the nutrition or medical or surgical intervention is generally provided to similar nutritional, medical, or surgical conditioned infants, whether disabled or not.

(c) Nothing in this section shall be interpreted to prevent a child's parents and physician from discontinuing the use of life-support systems or nonpalliative treatment for a child who is terminally ill where, in the opinion of the child's physician exercising competent medical judgment, the child has no reasonable chance of recovery from the terminal illness despite every appropriate medical treatment to correct the condition.

§ 40-11-3.1. Duty to report death of child due to child abuse or neglect.
R.I. Gen. Laws § 40-11-3.1

Any person required to report under the provisions of this title, who has reasonable cause to know or suspect that a child has died as a result of child abuse or neglect shall immediately transfer that information to the department or its agent who shall cause the report to be investigated immediately. Upon receipt of the report, the department or its agent shall immediately transfer such information to the local law enforcement agency or the state police as well as to the office of the medical examiner. The office of the medical examiner shall investigate the report and communicate its preliminary findings, orally within seventy-two (72) hours, and in writing within seven (7) working days to the appropriate law enforcement agency, to the department and, if the person who made the report is an employee or a member of the staff of a hospital, to the hospital. Office of the medical examiner shall also communicate its final findings and conclusions, with the basis therefore, to the same parties within sixty (60) days.
§ 40-11-3.2. False reporting of child abuse and neglect.
R.I. Gen. Laws § 40-11-3.2

Any person who knowingly and willfully makes or causes to be made to the department a false report of child abuse or neglect shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than one year or both.

§ 40-11-3.3. Duty to report - sexual abuse of a child in an educational program.
R.I. Gen. Law § 40-11-3.3

(a) Any person who has reasonable cause to know or suspect that any child has been the victim of sexual abuse by an employee, agent, contractor or volunteer of an educational program as defined in § 40-11-2 shall, within twenty-four (24) hours, transfer that information to the department of children, youth and families or its agent who shall immediately forward the report to state police and local law enforcement, and shall initiate an investigation of the allegations of sexual abuse. As a result of those reports and referrals, the department shall refer those children to appropriate services and support systems in order to provide for their health and welfare. In the event the department substantiates the allegations of sexual abuse against an employee, agent, contractor or volunteer of an educational program, the department shall immediately notify the state police, local law enforcement agency, the department of education, the educational program, the person who is the subject of the investigation, and the parent or parents of the child who is alleged to be the victim of the sexual abuse of the department’s findings.

(b) The director is authorized to promulgate rules and regulations in order to carry out the intent of this section.

§ 40-11-4. Immunity from liability.
R.I. Gen. Laws § 40-11-4

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

§ 40-11-5. Protective custody by physician or law enforcement officer.

(a) Any physician or duly certified registered nurse practitioner treating a child who has suffered physical injury that appears to have been caused by other than accidental means, or a child suffering from malnutrition or sexual molestation, shall have the right to keep the child in the custody of a hospital or any licensed child care center or facility for no longer than seventy-two (72) hours, with or without the consent of the child’s parents or guardian, pending the filing of an ex-parte petition to the family court. The expense for that temporary care shall be paid by the parents or legal guardian of the child or, if they are unable to pay, by the department.

(b) Any police or law enforcement officer may take a child into protective custody without the consent of the parents, or others exercising control over the child.

(c) If the officer has reasonable cause to believe that there exists an imminent danger to the child’s life or health, unless he or she is taken into protective custody, the officer shall immediately notify and place the child with the director of the department of children, youth, and families or his or her designated agent who shall
care for the child; provided, however, that no child may be detained in protective
custody longer than forty-eight (48) hours without the express approval of a justice of
the family court.

(d) Any child protective investigator or social caseworker II employed by the
department, may take a child into temporary protective custody without the consent
of his or her parent or other person responsible for the welfare of the child, if the
investigator or social caseworker II has reasonable cause to believe that the child or
his or her sibling has been abused and/or neglected and that continued care of the
child by his or her parent or other person responsible for the child's welfare will result
in imminent further harm to the child. The investigator or social caseworker II shall
have the child examined by a licensed physician or duly certified registered nurse
practitioner within twenty-four (24) hours in accordance with the provisions of § 40-
11-6(c); and, provide further, that the child shall not be detained in protective custody
longer than forty-eight (48) hours without the expressed approval of a justice of the
family court.

§ 40-11-6. Report by physicians of abuse or neglect.
R.I. Gen. Laws § 40-11-6

(a) When any physician, duly certified registered nurse practitioner, or other health-
care provider is involved in the delivery or care of infants born with, or identified as
being affected by, substance abuse or withdrawal symptoms resulting from prenatal
drug exposure, or a fetal alcohol spectrum disorder, or has cause to suspect that
a child brought to him or her or coming to him or her for examination, care, or
treatment, is an abused or neglected child as defined in this chapter, or when he or
she determines that a child under the age of twelve (12) years is suffering from any
sexually transmitted disease, he or she shall report the incident or cause a report
thereof to be made to the department as provided in subsection (b).

(b) An immediate oral report shall be made by telephone or otherwise, to both
the department and law enforcement agency, and shall be followed by a report, in
writing, to the department and law enforcement agency explaining the extent and
nature of the abuse or neglect the child is alleged to have suffered.

(c) The department, upon receipt of such a report by a person other than a physician
or duly certified registered nurse practitioner alleging that a child has been physically
abused, shall investigate the report, and if the investigation reveals evidence of injury
or that the child has been the victim of sexual abuse, the department shall have the
child examined by a licensed physician or duly certified registered nurse practitioner.
Any child protective investigator shall, with or without the consent of the parent
or other person responsible for the child's welfare, have the right to remove the
child from the place where the child may be to secure the examination required by
this subsection. Upon completion of the examination, it shall be mandatory for the
physician or duly certified registered nurse practitioner to make a written report of
his or her findings to the department.

(d) The department shall promulgate rules and regulations to implement the
provisions of this section.

§ 40-11-6.1. Penalty for failure to report or perform required act.
R.I. Gen. Laws § 40-11-6.1

Any person, official, physician, or institution required by this chapter to report known
or suspected child abuse or neglect or to perform any other act who knowingly fails to
do so or who knowingly prevents any person acting reasonably from doing so shall be
guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not
more than five hundred dollars ($500) or imprisonment for not more than one year or
both. In addition, any person, official, physician, or institution who knowingly fails to perform any act required by this chapter or who knowingly prevents another person from performing a required act shall be civilly liable for the damages proximately caused by that failure.

§ 40-11-11. Abrogation of privileged communications.
R.I. Gen. Laws § 40-11-11

The privileged quality of communication between husband and wife and any professional person and his or her patient or client, except that between attorney and client, is hereby abrogated in situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required by this chapter, failure to cooperate with the department in its activities pursuant to this chapter, or failure to give or accept evidence in any judicial proceeding relating to child abuse or neglect. In any family court proceeding relating to child abuse or neglect, notwithstanding the provisions of chapter 37.3 of title 5, or the provisions of § 9-17-24, no privilege of confidentiality may be invoked with respect to any illness, trauma, incompetency, addiction to drugs, or alcoholism of any parent.

§ 40-11-13. Confidentiality of reports and records - Penalty for disclosure.
R.I. Gen. Laws § 40-11-13

(a) All records concerning reports of child abuse and neglect, including reports made to the department, shall be confidential except as specifically provided by this chapter or as specifically provided by § 42-72-8 or specifically authorized by the family court in furtherance of the purposes directly connected with this chapter.

(b) Any employee or agent of the department violating any of the provisions of this section shall be guilty of a misdemeanor, and shall be fined not more than two hundred dollars ($200) or shall be imprisoned for not more than six (6) months or both.

(c) Nothing in this chapter shall limit the right of the attorney general to receive all records and reports of child abuse when the office is engaged in the investigation of or prosecution of criminal conduct by another relating to the child or other children within the same family unit.

R.I. Gen. Laws § 40-11-15

A parent or guardian practicing his or her religious beliefs which differ from general community standards who does not provide specified medical treatment for a child shall not, for that reason alone, be considered a negligent parent or guardian. However, nothing in this section shall: (1) prevent the child from being considered abused or neglected if the child is harmed or threatened with harm as described in § 40-11-2; or (2) preclude the court from ordering medical services or nonmedical services recognized by the laws of this state to be provided to the child where his or her health requires it.

§ 11-9-5.1. Investigation upon report of cruelty or neglect.
R.I. Gen. Laws § 11-9-5.1

In order to protect a child from cruelty or neglect, where any person has reasonable cause to believe that any child is being neglected or cruelly treated as defined in § 14-1-3 and reports such incident to the department of children, youth, and families, the department must cause an immediate investigation.

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§ 11-9-5.2. Immunity from liability.
R.I. Gen. Laws § 11-9-5.2

Any person participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from a report.
§ 63-7-20. Definitions.
S.C. Code Ann. § 63-7-20

When used in this chapter or Chapter 9 or 11 and unless the specific context indicates otherwise:

(1) “Abandonment of a child” means a parent or guardian willfully deserts a child or willfully surrenders physical possession of a child without making adequate arrangements for the child’s needs or the continuing care of the child.

(2) “Affirmative determination” means a finding by a preponderance of evidence that the child was abused or neglected by the person who is alleged or determined to have abused or neglected the child and who is mentioned by name in a report or finding. This finding may be made only by:
   (a) the court;
   (b) the Department of Social Services upon a final agency decision in its appeals process; or
   (c) waiver by the subject of the report of his right to appeal. If an affirmative determination is made by the court after an affirmative determination is made by the Department of Social Services, the court's finding must be the affirmative determination.

(3) “Age or developmentally appropriate” means:
   (a) activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group;
   (b) in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child; and
   (c) activities that include, but are not be limited to, the following:
      (i) sports;
      (ii) field trips;
      (iii) extracurricular activities;
      (iv) social activities;
      (v) after school programs or functions;
      (vi) vacations with caregiver lasting up to two weeks;
      (vii) overnight activities away from caregiver lasting up to one week;
      (viii) employment opportunities; and
      (ix) in-state or out-of-state travel, excluding overseas travel;
   (d) activities that do not conflict with any pending matters before the court, an existing court order, or the child's scheduled appointments for evaluations or treatment.

(4) “Caregiver” means a foster parent, kinship foster parent, or employee of a group home who is designated to make decisions regarding age or developmentally appropriate activities or experiences on behalf of a child in the custody of the department.

(5) “Child” means a person under the age of eighteen.

(6) “Child abuse or neglect” or “harm” occurs when the parent, guardian, or other person responsible for the child's welfare:
   (a) inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical
discipline which:
(i) is administered by a parent or person in loco parentis;
(ii) is perpetrated for the sole purpose of restraining or correcting the child;
(iii) is reasonable in manner and moderate in degree;
(iv) has not brought about permanent or lasting damage to the child; and
(v) is not reckless or grossly negligent behavior by the parents.
(b) commits or allows to be committed against the child a sexual offense as defined by the laws of this State or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;
(c) fails to supply the child with adequate food, clothing, shelter, or education as required under Article 1 of Chapter 65 of Title 59, supervision appropriate to the child's age and development, or health care though financially able to do so or offered financial or other reasonable means to do so and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child's absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate. For the purpose of this chapter "adequate health care" includes any medical or nonmedical remedial health care permitted or authorized under state law;
(d) abandons the child;
(e) encourages, condones, or approves the commission of delinquent acts by the child including, but not limited to, sexual trafficking or exploitation, and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or
(f) has committed abuse or neglect as described in subsections (a) through (e) such that a child who subsequently becomes part of the person's household is at substantial risk of one of those forms of abuse or neglect.

(7) "Child protective investigation" means an inquiry conducted by the department in response to a report of child abuse or neglect made pursuant to this chapter.

(8) "Child protective services" means assistance provided by the department as a result of indicated reports or affirmative determinations of child abuse or neglect, including assistance ordered by the family court or consented to by the family. The objectives of child protective services are to:
(a) protect the child's safety and welfare; and
(b) maintain the child within the family unless the safety of the child requires placement outside the home.

(9) "Court" means the family court.

(10) "Department" means the Department of Social Services.

(11) "Emergency protective custody" means the right to physical custody of a child for a temporary period of no more than twenty-four hours to protect the child from imminent danger.

Emergency protective custody may be taken only by a law enforcement officer pursuant to this chapter.

(12) "Guardianship of a child" means the duty and authority vested in a person by the family court to make certain decisions regarding a child, including:
(a) consenting to a marriage, enlistment in the armed forces, and medical and surgical treatment;
(b) representing a child in legal actions and to make other decisions of substantial legal significance affecting a child; and
(c) rights and responsibilities of legal custody when legal custody has not been vested by the court in another person, agency, or institution.

(13) "Indicated report" means a report of child abuse or neglect supported by facts which warrant a finding by a preponderance of evidence that abuse or neglect is more likely than not to have occurred.

(14) "Institutional child abuse and neglect" means situations of known or suspected child abuse or neglect where the person responsible for the child's welfare is the employee of a public or private residential home, institution, or agency.

(15) "Legal custody" means the right to the physical custody, care, and control of a child; the right to determine where the child shall live; the right and duty to provide protection, food, clothing, shelter, ordinary medical care, education, supervision, and discipline for a child and in an emergency to authorize surgery or other extraordinary care. The court may in its order place other rights and duties with the legal custodian. Unless otherwise provided by court order, the parent or guardian retains the right to make decisions of substantial legal significance affecting the child, including consent to a marriage, enlistment in the armed forces, and major nonemergency medical and surgical treatment, the obligation to provide financial support or other funds for the care of the child, and other residual rights or obligations as may be provided by order of the court.

(16) "Mental injury" means an injury to the intellectual, emotional, or psychological capacity or functioning of a child as evidenced by a discernible and substantial impairment of the child's ability to function when the existence of that impairment is supported by the opinion of a mental health professional or medical professional.

(17) "Party in interest" includes the child, the child's attorney and guardian ad litem, the natural parent, an individual with physical or legal custody of the child, the foster parent, and the local foster care review board.

(18) "Person responsible for a child's welfare" includes the child's parent, guardian, foster parent, an operator, employee, or caregiver, as defined by Section 63-13-20, of a public or private residential home, institution, agency, or childcare facility or an adult who has assumed the role or responsibility of a parent or guardian for the child, but who does not necessarily have legal custody of the child. A person whose only role is as a caregiver and whose contact is only incidental with a child, such as a babysitter or a person who has only incidental contact but may not be a caretaker, has not assumed the role or responsibility of a parent or guardian. An investigation pursuant to Section 63-7-920 must be initiated when the information contained in a report otherwise sufficient under this section does not establish whether the person has assumed the role or responsibility of a parent or guardian for the child.

(19) "Physical custody" means the lawful, actual possession and control of a child.

(20) "Physical injury" means death or permanent or temporary disfigurement or impairment of any bodily organ or function.

(21) "Preponderance of evidence" means evidence which, when fairly considered, is more convincing as to its truth than the evidence in opposition.

(22) "Probable cause" means facts and circumstances based upon accurate and reliable information, including hearsay, that would justify a reasonable person to believe that a child subject to a report under this chapter is abused or neglected.
(23) “Protective services unit” means the unit established within the Department of Social Services which has prime responsibility for state efforts to strengthen and improve the prevention, identification, and treatment of child abuse and neglect.

(24) “Reasonable and prudent parent standard” means the standard of care characterized by careful and sensible parental decisions that maintain the health, safety, and best interest of a child while at the same time encouraging the growth and development of the child, that a caregiver shall use when determining whether to allow a child in foster care to participate in age or developmentally appropriate activities.

(25) “Subject of the report” means a person who is alleged or determined to have abused or neglected the child, who is mentioned by name in a report or finding.

(26) “Suspected report” means all initial reports of child abuse or neglect received pursuant to this chapter.

(27) “Unfounded report” means a report made pursuant to this chapter for which there is not a preponderance of evidence to believe that the child is abused or neglected. For the purposes of this chapter, it is presumed that all reports are unfounded unless the department determines otherwise.

§ 63-7-310. Persons required to report.
S.C. Code Ann. § 63-7-310

(A) A physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner's or coroner's office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy including a Christian Science Practitioner or religious healer, school teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, substance abuse treatment staff, or childcare worker in a childcare center or foster care facility, foster parent, police or law enforcement officer, juvenile justice worker, undertaker, funeral home director or employee of a funeral home, persons responsible for processing films, computer technician, judge, or a volunteer non-attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA must report in accordance with this section when in the person's professional capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected as defined in Section 63-7-20.

(B) If a person required to report pursuant to subsection (A) has received information in the person's professional capacity which gives the person reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child's welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child's welfare, the reporter must make a report to the appropriate law enforcement agency.

(C) Except as provided in subsection (A), a person, including, but not limited to, a volunteer non-attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA, who has reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report, and is encouraged to report, in accordance with this section.

(D) Reports of child abuse or neglect may be made orally by telephone or otherwise to the county department of social services or to a law enforcement agency in the
county where the child resides or is found.

§ 63-7-315. Civil action created for wrongful termination based on employee having reported child abuse or neglect.
S.C. Code Ann. § 63-7-315

(A) An employer must not dismiss, demote, suspend, or otherwise discipline or discriminate against an employee who is required or permitted to report child abuse or neglect pursuant to Section 63-7-310 based on the fact that the employee has made a report of child abuse or neglect.

(B) An employee who is adversely affected by conduct that is in violation of subsection (A) may bring a civil action for reinstatement and back pay. An action brought pursuant to this subsection may be commenced against an employer, including the State, a political subdivision of the State, and an office, department, independent agency, authority, institution, association, or other body in state government. An action brought pursuant to this subsection must be commenced within three years of the date the adverse personnel action occurred.

(C) In an action brought pursuant to subsection (B), the court may award reasonable attorney's fees to the prevailing party; however, in order for the employer to receive reasonable attorney's fees pursuant to this subsection, the court must make a finding pursuant to Section 63-7-2000 that:
(1) the employee made a report of suspected child abuse or neglect maliciously or in bad faith; or
(2) the employee is guilty of making a false report of suspected child abuse or neglect pursuant to Section 63-7-440.

§ 63-7-330. Confidentiality of information.
S.C. Code Ann. § 63-7-330

(A) The identity of the person making a report pursuant to this section must be kept confidential by the agency or department receiving the report and must not be disclosed except as provided for in subsection (B) or (C) or as otherwise provided for in this chapter.

(B) When the department refers a report to a law enforcement agency for a criminal investigation, the department must inform the law enforcement agency of the identity of the person who reported the child abuse or neglect. The identity of the reporter must only be used by the law enforcement agency to further the criminal investigation arising from the report, and the agency must not disclose the reporter's identity to any person other than an employee of the agency who is involved in the criminal investigation arising from the report. If the reporter testifies in a criminal proceeding arising from the report, it must not be disclosed that the reporter made the report.

(C) When a law enforcement agency refers a report to the department for an investigation or other response, the law enforcement agency must inform the department of the identity of the person who reported the child abuse or neglect. The department must not disclose the identity of the reporter to any person except as authorized by Section 63-7-1990.

§ 63-7-360. Mandatory reporting to coroner.
S.C. Code Ann. § 63-7-360

A person required under Section 63-7-310 to report cases of suspected child abuse or neglect, including workers of the department, who has reason to believe a child
has died as the result of child abuse or neglect, shall report this information to the appropriate medical examiner or coroner. Any other person who has reason to believe that a child has died as a result of child abuse or neglect may report this information to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation and shall report his findings to the appropriate law enforcement agency, circuit solicitor's office, the county department of social services and, if the institution making a report is a hospital, to the hospital.

§ 63-7-380. Photos and x-rays without parental consent; release of medical records.
S.C. Code Ann. § 63-7-380

A person required to report under Section 63-7-310 may take, or cause to be taken, color photographs of the areas of trauma visible on a child who is the subject of a report and, if medically indicated, a physician may cause to be performed a radiological examination or other medical examinations or tests of the child without the consent of the child's parents or guardians. Copies of all photographs, negatives, radiological, and other medical reports must be sent to the department at the time a report pursuant to Section 63-7-310 is made, or as soon as reasonably possible after the report is made. Upon written request of the consulting care physician or the hospital facility and without consent of the child's parent or legal guardian, the primary care physician shall release the medical records, radiologic imaging, photos, and all other health information only to the consulting care physician and the hospital facility. The consulting care physician and the hospital facility only may release the records to law enforcement in accordance with the Health Insurance Portability and Accountability Act, 45 C.F.R. 164.512(b).

§ 63-7-390. Reporter immunity from liability.
S.C. Code Ann. § 63-7-390

A person required or permitted to report pursuant to Section 63-7-310 or who participates in an investigation or judicial proceedings resulting from the report, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil or criminal proceedings, good faith is rebuttably presumed. Immunity under this section extends to full disclosure by the person of facts which gave the person reason to believe that the child's physical or mental health or welfare had been or might be adversely affected by abuse or neglect.

§ 63-7-400. Department of Social Services immunity from liability.
S.C. Code Ann. § 63-7-400

An employee, volunteer, or official of the Department of Social Services required or authorized to perform child protective or child welfare-related functions or an individual with whom the department has contracted to convene family group conferences or a law enforcement officer required or authorized to perform child protective or child welfare related functions is immune from civil or criminal liability which might otherwise result by reason of acts or omissions within the scope of the official duties of the employee, volunteer, convener, officer, or official, as long as the employee, volunteer, convener, officer, or official acted in good faith and was not reckless, wilful, wanton, or grossly negligent. In all such civil or criminal proceedings good faith is rebuttably presumed. This grant of immunity is cumulative to and does not replace any other immunity provided under the South Carolina Tort Claims Act.

§ 63-7-410. Failure to report; penalties.
S.C. Code Ann. § 63-7-410
A person required to report a case of child abuse or neglect or a person required to perform any other function under this article who knowingly fails to do so, or a person who threatens or attempts to intimidate a witness is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

§ 63-7-420. Abrogation of privileged communication; exceptions.
S.C. Code Ann. § 63-7-420

The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client or clergy member, including Christian Science Practitioner or religious healer, and penitent, is abrogated and does not constitute grounds for failure to report or the exclusion of evidence in a civil protective proceeding resulting from a report pursuant to this article. However, a clergy member, including Christian Science Practitioner or religious healer, must report in accordance with this subarticle except when information is received from the alleged perpetrator of the abuse and neglect during a communication that is protected by the clergy and penitent privilege as provided for in Section 19-11-90.

§ 63-7-430. Civil action for bad faith reporting.
S.C. Code Ann. § 63-7-430

(A) If the family court determines pursuant to Section 63-7-2000 that a person has made a report of suspected child abuse or neglect maliciously or in bad faith or if a person has been found guilty of making a false report pursuant to Section 63-7-440, the department may bring a civil action to recover the costs of the department's investigation and proceedings associated with the investigation, including attorney's fees. The department also is entitled to recover costs and attorney's fees incurred in the civil action authorized by this section. The decision of whether to bring a civil action pursuant to this section is in the sole discretion of the department.

(B) If the family court determines pursuant to Section 63-7-2000 that a person has made a false report of suspected child abuse or neglect maliciously or in bad faith or if a person has been found guilty of making a false report pursuant to Section 63-7-440, a person who was subject of the false report has a civil cause of action against the person who made the false report and is entitled to recover from the person who made the false report such relief as may be appropriate, including:
   (1) actual damages;
   (2) punitive damages; and
   (3) a reasonable attorney's fee and other litigation costs reasonably incurred.

§ 63-7-440. Knowingly making false report.
S.C. Code Ann. § 63-7-440

(A) It is unlawful to knowingly make a false report of abuse or neglect.

(B) A person who violates subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than ninety days, or both.

§ 63-7-450. DSS to provide information to public.
S.C. Code Ann. § 63-7-450

(A) The Department of Social Services Protective Services shall inform all persons required to report under this subarticle of the nature, problem, and extent of child abuse and neglect and of their duties and responsibilities in accordance with this
article. The department also, on a continuing basis, shall conduct training programs for department staff and appropriate training for persons required to report under this subarticle.

(B) The department, on a continuing basis, shall inform the public of the nature, problem, and extent of the child abuse and neglect and of the remedial and therapeutic services available to children and their families. The department shall encourage families to seek help consistent with Section 63-7-30.

(C) The department, on a continuing basis, shall actively publicize the appropriate telephone numbers to receive reports of suspected child abuse and neglect, including the twenty-four hour, statewide, toll-free telephone service and respective numbers of the county department offices.

§ 63-7-740. Ex parte emergency protective custody.
S.C. Code Ann. § 63-7-740

(A) The family court may order ex parte that a child be taken into emergency protective custody without the consent of parents, guardians, or others exercising temporary or permanent control over the child if:

1. the family court judge determines there is probable cause to believe that by reason of abuse or neglect there exists an imminent and substantial danger to the child's life, health, or physical safety; and
2. parents, guardians, or others exercising temporary or permanent control over the child are unavailable or do not consent to the child's removal from their custody.

(B) If the court issues such an order, the department shall conduct a preliminary investigation and otherwise proceed as provided in this subarticle.

§ 63-7-750. Doctor or hospital may detain child; civil immunity.
S.C. Code Ann. § 63-7-750

(A) A physician or hospital to which a child has been brought for treatment may detain the child for up to twenty-four hours without the consent of the person responsible for the child's welfare if the physician or hospital:

1. has reason to believe that the child has been abused or neglected;
2. has made a report to a law enforcement agency and the department pursuant to Section 63-7-310, stating the time the physician notified the agency or department that the child was being detained until a law enforcement officer could arrive to determine whether the officer should take emergency physical custody of the child pursuant to Subarticle 3; and
3. has reason to believe that release of the child to the child's parent, guardian, custodian, or caretaker presents an imminent danger to the child's life, health, or physical safety. A hospital must designate a qualified person or persons within the hospital who shall have sole authority to detain a child on behalf of the hospital.

(B) A physician or hospital that detains a child in good faith as provided in this section is immune from civil or criminal liability for detaining the child.

§ 63-7-910. Duties of the department.
S.C. Code Ann. § 63-7-910

(A)
(1) The Department of Social Services may maintain a toll-free number available to persons throughout the State for the referral of family-related problems, including:
   (a) the reporting of known or suspected cases of child abuse or neglect;
   (b) other problems of a nature which may affect the stability of family life.

(2) This telephone service shall operate continuously. Upon receipt of a call involving suspected abuse or neglect, the Department of Social Services shall transmit the full contents of the report to the appropriate county department office. Immediately upon transmitting the report the department shall destroy the contents of the suspected report. Upon receipt of a call involving other problems of a nature which may affect the stability of family life, the department shall refer the call to the appropriate county department office or other service agency where appropriate.

(B) The department shall have within it a separate organizational unit administered within the department with qualified staff and resources sufficient to fulfill the purposes and functions assigned to it by this article.

(C) The department's responsibilities shall include, but are not limited to:
   (1) assigning and monitoring initial child protection responsibility through periodic review of services offered throughout the State;
   (2) assisting in the diagnosis of child abuse and neglect;
   (3) coordinating referrals of known or suspected child abuse and neglect;
   (4) measuring the effectiveness of existing child protection programs and facilitating research, planning, and program development; and
   (5) establishing and monitoring a statewide Central Registry for Child Abuse and Neglect.

(D) The department may contract for the delivery of protective services, family preservation services, foster care services, family reunification services, adoptions services, and other related services or programs. The department shall remain responsible for the quality of the services or programs and shall ensure that each contract contains provisions requiring the provider to deliver services in accordance with departmental policies and state and federal law.

(E) The department may promulgate regulations and formulate policies and methods of administration to carry out effectively child protective services, activities, and responsibilities.
S.D. Codified Laws § 22-24A-16

Any person working at or for an internet service provider or other electronic communication service who has knowledge of or observes, within the scope of the person's professional capacity or employment, a visual depiction that depicts a minor whom the person knows or reasonably should know to be under the age of eighteen, engaged in prohibited sexual acts or in the simulation of prohibited sexual acts, shall report the depiction to his or her employer or supervisor. The depiction shall then be reported to an appropriate law enforcement agency as soon as reasonably possible. The provider need not report to law enforcement depictions involving mere nudity of the minor, but shall report visual depictions involving prohibited sexual acts. This section may not be construed to require a provider to review all visual depictions received by subscribers or handled by the provider within the provider's professional capacity or employment.

It is unlawful for any owner or operator of a computer on-line service, internet service, or local internet bulletin board service knowingly to permit a subscriber to utilize the service to produce or reproduce visual depictions of prohibited sexual acts with a minor.

A violation of this section is a Class 1 misdemeanor. However, a violation of this section does not constitute grounds for a civil action for damages against any person.

S.D. Codified Laws § 22-24A-17

Any person working at or for a commercial film and photograph print processor who has knowledge of or observes, within the scope of the processor's professional capacity or employment, a film, photograph, video tape, negative, slide or other visual depiction that depicts a minor whom the processor knows or reasonably should know to be under the age of eighteen, engaged in prohibited sexual acts or in the simulation of prohibited sexual acts, shall report the depiction to his or her employer or supervisor. The depiction shall then be reported to an appropriate law enforcement agency as soon as reasonably possible. The processor need not report to law enforcement depictions involving mere nudity of the minor, but shall report visual depictions involving prohibited sexual acts. This section may not be construed to require a processor to review all films, photographs, videotapes, negatives, or slides delivered to the processor within the processor's professional capacity or employment.

It is unlawful for any owner or operator of a photography or film studio, photograph or film reproducing service, or video to film reproducing service knowingly to permit any person to utilize photograph or film reproduction or development services to produce or reproduce visual depictions of prohibited sexual acts with a minor.

A violation of this section is a Class 1 misdemeanor. However, a violation of this section does not constitute grounds for a civil action for damages against any person.

S.D. Codified Laws § 24A-18
Any commercial computer repair technician who has knowledge of or observes, within the scope of the technician's professional capacity or employment, a film, photograph, video tape, negative, slide or other visual depiction of a minor whom the technician knows or reasonably should know to be under the age of eighteen, engaged in prohibited sexual acts or in the simulation of prohibited sexual acts, shall report the depiction to an appropriate law enforcement agency as soon as reasonably possible. The computer repair technician need not report to law enforcement depictions involving mere nudity of the minor, but shall report visual depictions involving prohibited sexual acts. This section may not be construed to require a computer repair technician to review all data, disks, or tapes delivered to the computer repair technician within the computer repair technician's professional capacity or employment.

A violation of this section is a Class 1 misdemeanor. However, a violation of this section does not constitute grounds for a civil action for damages against any person.

§ 25-4-45.8. Consideration of reporting abuse falsely or without good cause in custody award.
S.D. Codified Laws § 25-4-45.8

In determining what is in the best interest of any particular child, the court shall consider whether the person whose conduct is under review has ever attempted to influence a child custody hearing by, falsely or without good cause, reporting pursuant to chapter 26-8A that some other person has committed sexual abuse, physical abuse, or abuse and neglect against the child or a sibling of the child. Nothing in this section effects the confidentiality of records and files relating to reports of child abuse or neglect maintained by the Department of Social Services pursuant to chapter 26-8A.

§ 26-8A-3. Persons required to report child abuse or neglected child - Intentional failure as misdemeanor.
S.D. Codified Laws § 26-8A-3

Any physician, dentist, doctor of osteopathy, chiropractor, optometrist, emergency medical technician, paramedic, mental health professional or counselor, podiatrist, psychologist, religious healing practitioner, social worker, hospital intern or resident, parole or court services officer, law enforcement officer, teacher, school counselor, school official, nurse, licensed or registered child welfare provider, employee or volunteer of a domestic abuse shelter, employee or volunteer of a child advocacy organization or child welfare service provider, chemical dependency counselor, coroner, or any safety-sensitive position as defined in § 3-6C-1, who has reasonable cause to suspect that a child under the age of eighteen has been abused or neglected as defined in § 26-8A-2 shall report that information in accordance with §§ 26-8A-6, 26-8A-7, and 26-8A-8. Any person who intentionally fails to make the required report is guilty of a Class 1 misdemeanor. Any person who knows or has reason to suspect that a child has been abused or neglected as defined in § 26-8A-2 may report that information as provided in § 26-8A-8.

§ 26-8A-4. Additional persons to report death resulting from abuse or neglect - Intentional failure as misdemeanor.
S.D. Codified Laws § 26-8A-3

In addition to the report required under § 26-8A-3, any person who has reasonable cause to suspect that a child has died as a result of child abuse or neglect as defined in § 26-8A-2 shall report that information to the medical examiner or coroner. Upon receipt of the report, the medical examiner or coroner shall cause an investigation to
be made and submit written findings to the state's attorney and the Department of Social Services. Any person required to report under this section who knowingly and intentionally fails to make a report is guilty of a Class 1 misdemeanor.

S.D. Codified Laws § 26-8A-5

As used in §§ 26-8A-3 and 26-8A-7, the terms “teacher,” “school counselor,” “school official,” “school administrator,” “school principal,” and “school superintendent” apply to any person substantially performing the respective duties of any such position in a public or private school, whether accredited or unaccredited, and to any person providing instruction pursuant to § 13-27-3.

§ 26-8A-6. Report of abuse or neglect by hospital personnel - Failure as misdemeanor - Written policy required.
S.D. Codified Laws § 26-8A-6

Any person who has contact with a child through the performance of services as a member of a staff of a hospital or similar institution shall immediately notify the person in charge of the institution or his designee of suspected abuse or neglect. The person in charge shall report the information in accordance with the provisions of § 26-8A-8. Any person required by this section to report shall also promptly submit to the state's attorney complete copies of all medical examination, treatment, and hospital records regarding the child. Any person who knowingly and intentionally fails to make a required report and to submit copies of records is guilty of a Class 1 misdemeanor. Each hospital or similar institution shall have a written policy on reporting of child abuse and neglect and submission of copies of medical examination, treatment, and hospital records to the state's attorney.

§ 26-8A-7. Child abuse or neglect reports by school personnel - Failure as misdemeanor - Written policy required.
S.D. Codified Laws § 26-8A-7

Any person who has contact with a child through the performance of services in any public or private school, whether accredited or unaccredited, as a teacher, school nurse, school counselor, school official or administrator, or any person providing services pursuant to § 13-27-3 shall notify the school principal or school superintendent or designee of suspected abuse or neglect. The school principal or superintendent shall report the information in accordance with the provisions of § 26-8A-8. Any person who knowingly and intentionally fails to make a required report is guilty of a Class 1 misdemeanor. Each school district shall have a written policy on reporting of child abuse and neglect.

S.D. Codified Laws § 26-8A-8

The reports required by §§ 26-8A-3, 26-8A-6, and 26-8A-7 and by other sections of this chapter shall be made orally and immediately by telephone or otherwise to the state's attorney of the county in which the child resides or is present, to the Department of Social Services or to law enforcement officers. The mandatory reporter who witnessed the disclosure or evidence of the abuse or neglect must be available to answer questions when the initial report is made pursuant to this section. The state's attorney or law enforcement officers, upon receiving a report, shall immediately notify the Department of Social Services. Any person receiving a report of suspected child abuse or child neglect shall keep the report confidential as provided in § 26-8A-
The person receiving a report alleging child abuse or neglect shall ask whether or not the reporting party desires a response report. If requested by the reporting person, the Department of Social Services or the concerned law enforcement officer shall issue within thirty days, a written acknowledgment of receipt of the report and a response stating whether or not the report will be investigated.

§ 26-8A-10. Report to social services – Content.
S.D. Codified Laws § 26-8A-10

A report made pursuant to § 26-8A-8 to the Department of Social Services shall include the name, address, date and place of birth of the child, the name and address of the child's parents, guardian, custodian, or responsible persons, the date of the report, and the suspected or proven instances of child abuse or neglect as defined in § 26-8A-2. The Department of Social Services shall be the central registry for such information.

§ 26-8A-11.1. Request for a hearing to release name of complainant in unsubstantiated investigation.
S.D. Codified Laws § 26-8A-11.1

Within thirty days after the notice of the determination of an unsubstantiated investigation by the Department of Social Services, the person who is the subject of the investigation may request an administrative hearing to determine whether the report was made with malice and without reasonable foundation and whether the name of the complainant should be released to the subject of the investigation. Within twenty days of receiving the request, an administrative hearing officer shall notify the complainant by mail that a request to release the complainant's name has been made and set a time and date for a hearing. The complainant shall be afforded the opportunity to be heard prior to any determination by the hearing officer to release the name. The complainant may appear at the hearing in person or through counsel or may submit written objections to the request in lieu of appearance. Any written objections or other information that may reveal the name of the complainant shall be sealed and available only to the administrative hearing officer. The administrative hearing officer shall determine within ninety days of the final date of the hearing whether the report was made maliciously and without reasonable foundation and whether release of the complainant's name would be likely to endanger the complainant's life or safety. The administrative hearing officer shall issue such a finding in a written report. The report may not disclose the name of the complainant or other identifying information. If the administrative hearing officer determines that the report was made with malice and without reasonable foundation and that release of the complainant's name is not likely to endanger the complainant's life or safety, the officer shall order the department to release the name of the complainant thirty days after issuing such finding. If the administrative hearing officer determines that the report was made with reasonable foundation or that release of the complainant's name is likely to endanger the life or safety of the complainant, the name of the complainant may not be disclosed. Decisions of the department under this section are administrative decisions subject to review under chapter 1-26. If a decision of the department under this section is appealed under chapter 1-26, the identity of the complainant shall remain confidential until a final court order requiring the release of the complainant's name.

§ 26-8A-13. Confidentiality of abuse or neglect information - Violation as misdemeanor - Release to certain parties.
S.D. Codified Laws § 26-8A-13
All investigative case records and files relating to reports of child abuse or neglect are confidential, and no disclosure of any such records, files, or other information may be made except as authorized in chapter 26-7A or this chapter. Any person who knowingly violates the confidential nature of the records, files, or information is guilty of a Class 1 misdemeanor. The Department of Social Services may release records, files, or other information to the following parties upon receipt of a request showing that it is necessary for the parties to have such information in the performance of official functions relating to child abuse or neglect:

(1) The attorney general, the state's attorneys, law enforcement agencies, protective services workers, and judges of the courts investigating reports of known or suspected child abuse or neglect;
(2) The attorney or guardian ad litem of the child who is the subject of the information;
(3) Public officials or their authorized representatives who require the information in connection with the discharge of official duties;
(4) Institutions and agencies that have legal responsibility or authorization to care for, treat, or supervise a child who is the subject of the information or report;
(5) An adoptive parent of the child who is the subject of the information or report;
(6) A foster parent, kinship provider, or prospective adoptive parent who is or may be caring for a child in the custody of the Department of Social Services who is the subject of the information or report;
(7) A state, regional, or national registry of child abuse and neglect cases and courts of record of other states;
(8) A validly appointed and registered child protection team under § 26-8A-17;
(9) A physician caring for a child who is suspected or found to be abused or neglected;
(10) State hearing examiners and any person, or the legal representative of any person, who is the subject of the report for purposes directly related to review under § 26-8A-11; and
(11) A person eligible to submit an adoptive home study report under § 25-6-9.1 or 26-4-15. However, the information may only be released for the purpose of screening applicants.

Information received by an authorized receiving party shall be held confidential by the receiving party. However, the court may order the release of the information or any portion of it necessary for determination of an issue before the court.

Upon written request, the Department of Social Services shall release findings or information regarding the abuse or neglect of a child that resulted in a fatality or near fatality of the child unless the release of the findings or information would jeopardize a pending criminal investigation or proceeding. The findings or information to be released shall relate to the acts of child abuse or neglect that caused the fatality or near fatality of the child. However, the identity of the child may never be released. For the purpose of this chapter, near fatality means an act that, as certified by a physician, placed the child in serious or critical condition.

S.D. Codified Laws § 26-8A-14

Any person or party participating in good faith in the making of a report or the submitting of copies of medical examination, treatment, or hospitalization records pursuant to §§ 26-8A-3 to 26-8A-8, inclusive, or pursuant to any other provisions of this chapter, is immune from any liability, civil or criminal, that might otherwise be
incurred or imposed, and has the same immunity for participation in any judicial proceeding resulting from the report. Immunity also extends in the same manner to persons requesting the taking of photographs and X rays pursuant to § 26-8A-16, to persons taking the photographs and X rays, to child protection teams established by the secretary of social services, to public officials or employees involved in the investigation and treatment of child abuse or neglect or making a temporary placement of the child pursuant to this chapter, or to any person who in good faith cooperates with a child protection team or the Department of Social Services in investigation, placement, or a treatment plan. The provisions of this section or any other section granting or allowing the grant of immunity do not extend to any person alleged to have committed an act or acts of child abuse or neglect.

§ 26-8A-15. Communications not privileged in child abuse or neglect cases.
S.D. Codified Laws § 26-8A-15

The privilege of confidentiality set forth in §§ 19-2-3, 19-19-503, 19-19-504, 19-19-508.1, and 36-26-30 may not be claimed in any judicial proceeding involving an alleged abused or neglected child or resulting from the giving or causing the giving of a report concerning abuse or neglect of a child pursuant to §§ 26-8A-3 to 26-8A-8, inclusive.

§ 26-8A-16. Photographs, videotapes, or other images, and medical examinations taken without consent - Disposition.
S.D. Codified Laws § 26-8A-16

Any person who receives a report under § 26-8A-3 may take or cause to be taken color photographs, videotapes, or other images of the areas of trauma visible on a child who is the subject of the report and may require a radiological or other medical examination or testing of the child without the consent of the child's parents, guardian, or custodian. All photographs, videotapes, or other images taken pursuant to this section shall be taken by a law enforcement official, the Department of Social Services, or a person authorized by a law enforcement official or the department. All photographs, videotapes, other images, X rays, and test results, or copies of them, shall be sent to the appropriate law enforcement agency or state's attorney or to the Department of Social Services. These photographs, videotapes, and other images need not be made a part of the child's medical or hospital records. Any photograph, videotapes, or other image in the possession of the Department of Social Services shall be destroyed by the Department of Social Services if no criminal prosecution or civil action is initiated within three years of the date that such material was received by the Department of Social Services.

§ 34-24-27. Reports of fetal alcohol syndrome.
S.D. Codified Laws. § 34-24-27

The Department of Health shall provide for the collection and processing of mandatory reports of identifiable and suspected cases of fetal alcohol syndrome from all physicians, hospitals, and institutions. To implement this section, the department may adopt rules, pursuant to chapter 1-26, specifying the definitions, methods by which reports shall be made, and the content and timeliness of such reports.

S.D. Codified Laws. § 34-24-28

The reports may not be released, shared with any agency or institution, or made public, upon subpoena, search warrant, discovery proceedings or otherwise and are
not admissible as evidence in any action of any kind in a court or before any tribunal, board, agency or person. However, release of medical or epidemiological information may be authorized by the Department of Health under any of the following circumstances:

(1) For statistical purposes in such a manner that no person can be identified;
(2) With the written consent of the person identified in the information released;
(3) To the extent necessary to enforce the provisions of §§ 34-24-28 to 34-24-31, inclusive, and rules promulgated thereunder concerning the prevention and treatment of fetal alcohol syndrome; or
(4) To the extent necessary to protect the health or life of a named person.

§ 34-24-29. Disclosure of confidential reports as a misdemeanor.

S.D. Codified Laws. § 34-24-29

Except as provided in § 34-24-28, any person responsible for recording, reporting, or maintaining medical reports required to be submitted pursuant to § 34-24-27, who knowingly or intentionally discloses or fails to protect medical reports declared to be confidential under § 34-24-28, or who compels another person to disclose such medical reports, is guilty of a Class 1 misdemeanor.


S.D. Codified Laws. § 34-24-30

Good faith reporting or disclosure pursuant to § 34-24-27 does not constitute a libel or slander or a violation of the right to privacy of privileged communication.

§ 34-24-31. Civil and criminal immunity.

S.D. Codified Laws. § 34-24-31

Any person who in good faith complies with the reporting requirements of § 34-24-27 is immune from civil and criminal liability for such action taken in compliance with the provisions of § 34-24-27. Compliance by a person or facility with the reporting requirements of § 34-24-27 fulfills any duty of the person or facility to protect the public health.

Tenn. Code Ann. § 37-1-401

As used in this part, unless the context otherwise requires:

(1) "Child" means a person who is under eighteen (18) years of age or who is reasonably presumed to be under eighteen (18) years of age;
(2) "Department" means the department of children's services; and
(3) "Report of harm" means a report filed under § 37-1-403.

§ 37-1-403. Report of brutality, abuse, neglect or child sexual abuse - Notification to parents of abuse on school grounds or under school supervision – Confidentiality of records.

Tenn. Code Ann. § 37-1-403

(a) Any person who has knowledge of or is called upon to render aid to any child who is suffering from or has sustained any wound, injury, disability, or physical or mental condition shall report such harm immediately if the harm is of such a nature as to reasonably indicate that it has been caused by brutality, abuse or neglect or that, on the basis of available information, reasonably appears to have been caused by brutality, abuse or neglect.

(2) Any such person with knowledge of the type of harm described in this subsection (a) shall report it, by telephone or otherwise, to the:
(A) Judge having juvenile jurisdiction over the child;
(B) Department, in a manner specified by the department, either by contacting a local representative of the department or by utilizing the department's centralized intake procedure, where applicable;
(C) Sheriff of the county where the child resides; or
(D) Chief law enforcement official of the municipality where the child resides.

(3) If any such person knows or has reasonable cause to suspect that a child has been sexually abused, the person shall report such information in accordance with § 37-1-605, relative to the sexual abuse of children, regardless of whether such person knows or believes that the child has sustained any apparent injury as a result of such abuse.

(b) The report shall include, to the extent known by the reporter, the name, address, telephone number and age of the child, the name, address, and telephone number of the person responsible for the care of the child, and the facts requiring the report. The report may include any other pertinent information.

(c) If a law enforcement official or judge becomes aware of known or suspected child abuse, through personal knowledge, receipt of a report, or otherwise, such information shall be reported to the department immediately upon the receipt of such information, and, where appropriate, the child protective team shall be notified to investigate the report for the protection of the child in accordance with this part. Further criminal investigation by such official shall be appropriately conducted in coordination with the team or department to the maximum extent possible.

(2) A law enforcement official or judge who knows or becomes aware of a person who is convicted of a violation of § 55-10-401 and sentenced under § 55-10-402(b), because such person was at the time of the offense accompanied by a child under eighteen (18) years of age, shall report such information, as provided in subdivision (c)(1), and the department shall consider such information to be appropriate for investigation in the same manner as other reports of suspected child abuse or neglect.

(3)
(A) If the department receives information containing references to alleged human trafficking or child pornography which does or does not result in an investigation by the department, the department shall notify the appropriate law enforcement agency immediately upon receipt of such information.

(B) If the department initiates an investigation of severe child abuse, including, but not limited to, child sexual abuse, the department shall notify the appropriate local law enforcement agency immediately upon assignment of such case to a department child protective services worker.

(C) Both the department and law enforcement shall maintain a log of all such reports of such information received and confirmation that the information was sent to the appropriate party, pursuant to this subdivision (c)(3).

(d) Any person required to report or investigate cases of suspected child abuse who has reasonable cause to suspect that a child died as a result of child abuse shall report such suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report the medical examiner's findings, in writing, to the local law enforcement agency, the appropriate district attorney general, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in § 37-1-409.

(e) Reports involving known or suspected institutional child sexual abuse shall be made and received in the same manner as all other reports made pursuant to Acts 1985, ch. 478, relative to the sexual abuse of children. Investigations of institutional child sexual abuse shall be conducted in accordance with § 37-1-606.

(f) Every physician or other person who makes a diagnosis of, or treats, or prescribes for any sexually transmitted disease set out in § 68-10-112, or venereal herpes and chlamydia, in children thirteen (13) years of age or younger, and every superintendent or manager of a clinic, dispensary or charitable or penal institution, in which there is a case of any of the diseases, as set out in this subsection (f), in children thirteen (13) years of age or younger shall report the case immediately, in writing on a form supplied by the department of health to that department. If the reported cases are confirmed and if sexual abuse is suspected, the department of health will report the case to the department of children's services. The department of children's services will be responsible for any necessary follow-up.

(g) Every physician or other person who makes an initial diagnosis of pregnancy to an unemancipated minor, and every superintendent or manager of a clinic, dispensary or charitable or penal institution in which there is a case of an unemancipated minor who is determined to be pregnant, shall provide to the minor's parent, if the parent is present, and the minor consents, any readily available written information on how to report to the department of children's services an occurrence of sex abuse that may have resulted in the minor's pregnancy, unless disclosure to the parent would violate the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. §§ 1320d et seq., or the regulations promulgated pursuant to the act.

(1) Failure to provide the written information shall not subject a person to the penalty provided by § 37-1-412.

(2) The department of children's services shall provide to the department of health the relevant written information. The department of health shall distribute copies of the written information to all licensees of the appropriate health-related boards through the boards' routinely issued newsletters. At the time of initial licensure, these boards shall also provide new licensees a copy of the relevant written information for distribution pursuant to this subsection (g).
(h) Nothing in this section shall be construed to prohibit any hospital, clinic, school, or other organization responsible for the care of children, from developing a specific procedure for internally tracking, reporting, or otherwise monitoring a report made by a member of the organization's staff pursuant to this section, including requiring a member of the organization's staff who makes a report to provide a copy of or notice concerning the report to the organization, so long as the procedure does not inhibit, interfere with, or otherwise affect the duty of a person to make a report as required by subsection (a). Nothing in this section shall prevent staff of a hospital or clinic from gathering sufficient information, as determined by the hospital or clinic, in order to make an appropriate medical diagnosis or to provide and document care that is medically indicated, and is needed to determine whether to report an incident as defined in this part. Those activities shall not interfere with nor serve as a substitute for any investigation by law enforcement officials or the department; provided, that, if any hospital, clinic, school or other organization responsible for the care of children develops a procedure for internally tracking, reporting or otherwise monitoring a report pursuant to this section, the identity of the person who made a report of harm pursuant to this section or § 37-1-605 shall be kept confidential.

(i)

(1) Any school official, personnel, employee or member of the board of education who is aware of a report or investigation of employee misconduct on the part of any employee of the school system that in any way involves known or alleged child abuse, including, but not limited to, child physical or sexual abuse or neglect, shall immediately upon knowledge of such information notify the department of children's services or anyone listed in subdivision (a)(2) of the abuse or alleged abuse.

(2) Notwithstanding § 37-5-107 or § 37-1-612 or any other law to the contrary, if a school teacher, school official or any other school personnel has knowledge or reasonable cause to suspect that a child who attends such school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to this section and that the abuse occurred on school grounds or while the child was under the supervision or care of the school, then the principal or other person designated by the school shall verbally notify the parent or legal guardian of the child that a report pursuant to this section has been made and shall provide other information relevant to the future wellbeing of the child while under the supervision or care of the school. The verbal notice shall be made in coordination with the department of children's services to the parent or legal guardian within twenty-four (24) hours from the time the school, school teacher, school official or other school personnel reports the abuse to the department of children's services, judge or law enforcement; provided, that in no event may the notice be later than twenty-four (24) hours from the time the report was made. The notice shall not be given to any parent or legal guardian if there is reasonable cause to believe that the parent or legal guardian may be the perpetrator or in any way responsible for the child abuse or child sexual abuse.

(3) Once notice is given pursuant to subdivision (i)(2), the principal or other designated person shall provide to the parent or legal guardian all school information and records relevant to the alleged abuse or sexual abuse, if requested by the parent or legal guardian; provided, that the information is edited to protect the confidentiality of the identity of the person who made the report, any other person whose life or safety may be endangered by the disclosure and any information made confidential pursuant to federal law or § 10-7-504(a)(4). The information and records described in this subdivision (i)(3) shall not include records of other agencies or departments.

(4) For purposes of this subsection (i), “school” means any public or privately operated child care agency, as defined in § 71-3-501, preschool, nursery school, kindergarten, elementary school or secondary school.
§ 37-1-406. Availability for receiving reports - Commencement of investigations - Examination and observation of child - Reports - Services provided - Investigators - Interpreter for hearing-impaired child.

(a) The department shall be capable of receiving and investigating reports of child abuse twenty-four (24) hours a day, seven (7) days a week. The county office shall make a thorough investigation promptly after receiving either an oral or written report of harm. All representatives of the child protective services agency shall, at the initial time of contact with the individual who is subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual consistent with laws protecting the rights of the informant. If it appears that the immediate safety or well being of a child is endangered, that the family may flee or the child will be unavailable, or that the facts otherwise warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In the event the report involves child sexual abuse, the department shall follow the procedures outlined in subsection (b).

(b) In cases involving child sexual abuse, the investigation shall be conducted by a child protective investigation team as defined in § 37-1-602 relative to child sexual abuse pursuant to the provisions of § 37-1-606. In the event an immediate investigation has been initiated, the department shall notify the child protection team as soon as possible and the team shall proceed with the investigation in accordance with the provisions of Acts 1985, ch. 478. Other cases of child abuse may be investigated by the team in the discretion of each individual team.

(c) All private schools, as defined by § 49-6-3001, church-related schools, as defined by § 49-50-801, and state, county and local agencies shall give the team access to records in their custody pertaining to the child and shall otherwise cooperate fully with the investigation.

(d) The investigation shall include:

1. The nature, extent and cause of the harm, including a determination of whether there exists a threat of harm, and the nature and extent of any present or prior injuries or abuse;
2. The identity of the person responsible for it;
3. The names and conditions of the other children in the home;
4. An evaluation of the parents or persons responsible for the care of the child, the home environment, and the relationship of each child to the parents or persons responsible for such child's care;
5. The identity of any other persons in the same household;
6. The identity of any other children in the care of any adult residing in the household; and
7. All other pertinent data.

(e) The investigation shall include a visit to the child's home, an interview with and physical observation of the child, and an interview with the parent(s) or other custodian of the child and any other persons in the child's home. If the investigator deems it necessary, the investigation shall also include medical, psychological or psychiatric examinations of the child and any other children in the child's home or under the care of any person alleged to have permitted or caused abuse, neglect or sexual abuse to the child. If the investigator determines, based on a visit to the child's home, observation of and interview with the subject child, and interview with other persons in the child's home, that the report of harm was wholly without substance, the investigator may determine that physical and psychological examinations of the subject child are unnecessary, in which case they will not be required. If admission to
the home, school, or any place where the child may be, or permission of the parents or persons responsible for the child's care for the physical and psychological or psychiatric examinations cannot be obtained, the juvenile court, upon cause shown, shall order the parents or person responsible for the care of the child or the person in charge of any place where the child may be, to allow entrance for the interview, examination, and investigation. If the report of harm indicates that the abuse, neglect or sexual abuse occurred in a place other than the child's home, then, in the discretion of the investigator, the investigation may include a visit to the location where the incident occurred or a personal interview with the child and the parents or other custodians in another location instead of a visit to the child's home.

(f) Any person required to investigate cases of child abuse may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report and of any objects or conditions in the child's home or surroundings that could have caused or contributed to the harm to the child. If the nature of the child's injuries indicate a need for immediate medical examination or treatment, the investigator may take or cause the child to be taken for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents, legal guardian or legal custodian. Any licensed physician who, based on information furnished by the investigator, the parents or other persons having knowledge of the situation, or the child, or on personal observation of the child, suspects that an injury was the result of child abuse, may authorize appropriate examinations to be performed on the child without the consent of the child's parent, legal guardian or legal custodian.

(g) At the initial investigation of child abuse and at any subsequent investigation as deemed appropriate by the investigator, audio or videotape recording may be taken of the traumatized victim. Such tape shall be admissible as evidence in cases of child sexual abuse if it meets the standards established in title 24 for the use of recorded statements. Regardless of whether such recording is used in evidence, it shall be made available for use as provided in § 37-1-405(b)(2).

(h) The investigator shall interview the child outside the presence of the parent(s) or other persons allegedly responsible for the harm and, wherever possible, shall interview the child in a neutral setting other than the location where the alleged abuse occurred.

(i) No later than sixty (60) days after receiving the initial report, the department or team in cases of child sexual abuse or the department in all other cases shall determine whether the reported abuse was indicated or unfounded and report its findings to the department's abuse registry. Each member of the team shall be provided with a copy of the report in any case investigated by the team. In any case investigated solely by the department, the department shall make a complete written investigation report, including its recommendation, to the juvenile court. The district attorney general shall also be provided a copy of any report in all cases where the investigation determines that the report was indicated. Further proceedings shall be conducted pursuant to part 1 of this chapter, as appropriate.

(j) If the department or team in cases of child sexual abuse or the department in all other cases determines that the protection of the child so requires, the department shall provide or arrange for services necessary to prevent further abuse, to safeguard and enhance the welfare of children, and to preserve family life. Such services may include provision for protective shelter, to include room and board; medical and remedial care; day care; homemaker; caretaker; transportation; counseling and therapy; training courses for the parents or legal guardian; and arranging for the provision of other appropriate services. All such services shall be provided when appropriate within the limits of available resources. These services shall first be offered for the voluntary acceptance by the parent or other person responsible for
the care of the child, unless immediate removal is needed to protect the child. At any point if the department or team in cases of child sexual abuse or the department in all other cases deems that the child’s need for protection so requires, it may proceed with appropriate action under part 1 of this chapter.

(k) If the investigator, as a result of the investigation, determines that there is cause to classify the report of severe abuse as indicated rather than unfounded, the team in cases of child sexual abuse or the department in all other cases may recommend that criminal charges be filed against the alleged offender. Any interested person who has information regarding the offenses may forward a statement to the district attorney general as to whether such person believes prosecution is justified and appropriate. Within fifteen (15) days of the completion of the district attorney general’s investigation of a report of severe abuse, the district attorney general shall advise the department or team whether or not prosecution is justified and appropriate, in the district attorney general’s opinion, in view of the circumstances of the specific case.

(l) The legislative intent of this section is to protect the legal rights of the family in an investigation and to ensure that no activity occurs that compromises the department’s child abuse investigation or any ongoing concurrent criminal investigation conducted by law enforcement.

(m) (1) In jurisdictions that have implemented the multi-level response system, in addition to other investigative procedures under this section, local law enforcement officers and district attorneys general having jurisdiction shall assist the department, on request in writing, if the department determines that it is likely that the case may result in criminal prosecution or that a child protective services worker may be at risk of harm while investigating the following reports of harm:
(A) Any report of harm alleging facts that, if proved, would constitute severe child abuse as defined in § 37-1-102;
(B) Any report of harm alleging facts that, if proved, would constitute child sexual abuse as defined in § 37-1-602;
(C) Any report of harm alleging facts that, if proved, would constitute the following physical injuries to a child:
   (i) Head trauma;
   (ii) Broken bones;
   (iii) Inflicted burns;
   (iv) Organic functional impairment, as defined by the department;
   (v) Broken skin;
   (vi) Shaken baby syndrome;
   (vii) Defensive injuries;
   (viii) Injuries related to physical confinement; or
   (ix) Infants exposed to illegal narcotics, including methamphetamine;
(D) Any report of harm alleging facts that, if proved, would constitute the following types of neglect:
   (i) A child left without supervision in a dangerous environment;
   (ii) Lack of food or nurturance resulting in a failure to thrive;
   (iii) Abandonment of a child under the age of eight (8);
   (iv) Lack of care that results in a life-threatening condition or hospitalization; or
   (v) Inaction of the parent resulting in serious physical injury;
(E) Any report of harm alleging facts that would result in the removal of a child from the home pursuant to department policy or rule;
(F) Any report of harm alleging facts that involve a caretaker at any
institution, including, but not limited to, any licensed day care center, public or private school, or hospital; or

(G) Any report of harm alleging facts that, if proved, would constitute any other class of injury identified by the department through policy or rule as necessitating investigation.

(2) If a local law enforcement agency or district attorney general assisting the department under this subsection (m) decides not to proceed with prosecution or terminates prosecution after undertaking it, the agency or district attorney general shall make a written report on a standardized check-off form developed by the department and the Tennessee district attorneys general conference to the department and the juvenile court on the basis for its decision. The department shall compile such reports and present them to the judiciary committee of the senate and the civil justice committee of the house of representatives as part of its report pursuant to the multi-level response system for children and families, compiled in chapter 5, part 6 of this title. The department shall make quarterly reports to local law enforcement agencies and district attorneys general as to the number and types of cases the department is handling in their jurisdictions on the basis of reports of harm or sexual abuse or of children at risk of being so harmed or sexually abused.

(n) If the report of child abuse alleges physical abuse, it shall be in the best interest of the child that the child be referred to a child advocacy center or that the investigation be conducted by a child protective services investigator who is adequately trained in investigating physical abuse reports. Under no circumstances shall the investigation be performed by a probation officer previously assigned to the child.

(o)

(1) Any investigator or law enforcement officer who is investigating a possible domestic abuse or child abuse incident that may have involved or occurred in the presence of a hearing-impaired child shall not use the child's parent or family member as an interpreter. The investigator or officer shall instead communicate with the hearing-impaired child using an interpreter trained as a sign language interpreter.

(2) The interpreter may interpret from a remote location by communicating with the child using video remote interpreting. If the child is unable to understand, then a live, qualified interpreter from the list identified in subdivision (3) shall be used. The communication shall occur outside the presence of the child's parent, other family members, or potential abusers.

(3) Law enforcement agencies shall maintain a list of interpreters developed from a list provided by the Tennessee council for the deaf, deaf-blind, and hard of hearing.

Tenn. Code Ann. § 37-1-409

(a)

(1) Except as otherwise provided by this section and §§ 37-1-612 and 37-5-107, reports of harm made under this part and the identity of the reporter are confidential, except when the juvenile court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to an indictment or conviction.

(2) Except as may be ordered by the juvenile court as herein provided, the name of any person reporting child abuse shall not be released to any person, other than employees of the department or other child protection team members responsible for child protective services, the abuse registry, or the appropriate district attorney general upon subpoena of the Tennessee bureau of investigation, without the written consent of the person
reporting. Such person’s identity shall be irrelevant to any civil proceeding and shall, therefore, not be subject to disclosure by order of any court. This shall not prohibit the subpoenaing of a person reporting child abuse when deemed necessary by the district attorney general or the department to protect a child who is the subject of a report; provided, that the fact that such person made the report is not disclosed.

(b) Except as otherwise provided in this part, it is unlawful for any person, except for purposes directly connected with the administration of this part, to disclose, receive, make use of, authorize or knowingly permit, participate in, or acquiesce in the use of any list or the name of, or any information concerning, persons receiving services pursuant to this part, or any information concerning a report or investigation of a report of harm under this part, directly or indirectly derived from the records, papers, files or communications of the department or divisions thereof acquired in the course of the performance of official duties.

(c) In addition to such other purposes as may be directly connected with the administration of this part, the department shall also grant access to information to those persons specified in § 37-1-612.

(d) The department may confirm whether a child abuse or neglect investigation has been commenced, but may not divulge, except as permitted under this part, any details about the case, including, but not limited to, the name of the reporter, the alleged victim, or the alleged perpetrator.

(e) The department shall adopt such rules as may be necessary to carry out the following purposes:

1. The establishment of administrative and due process procedures for the disclosure of the contents of its files and the results of its investigations for the purpose of protecting children from child sexual abuse, physical abuse, emotional abuse, or neglect; and
2. For other purposes directly connected with the administration of this chapter, including, but not limited to, cooperation with schools, child care agencies, residential and institutional child care providers, child protection agencies, individuals providing care or protection for the child, medical and mental health personnel providing care for the child and the child's family and the perpetrator of any form of child abuse or neglect, law enforcement agencies, the judicial and correctional systems, and for cooperation with scientific and governmental research on child abuse and neglect.

(f) Except as specifically provided in this chapter, nothing in this chapter shall prevent the department from sharing information with the district attorney general and law enforcement personnel for the purpose of cooperating with a law enforcement investigation. Information from departmental records that is shared with the district attorney general or law enforcement by the department shall remain confidential to the same extent that information not shared with the district attorney general and law enforcement is confidential. Unless otherwise ordered by a court, or to the extent that such information is used for criminal prosecution, or to the extent required under the Tennessee rules of criminal procedure after criminal charges have been filed, any portion of shared information that does not become part of a court record shall remain confidential to the same extent as information not shared by the department remains confidential.

(g) A violation of this section is a Class B misdemeanor.

§ 37-1-410. Immunity from civil or criminal liability for reporting abuse - Damages for employment change because of making report.

Tenn. Code Ann. § 37-1-410
(a) If a health care provider makes a report of harm, as required by § 37-1-403; AND IF the report arises from an examination of the child performed by the health care provider in the course of rendering professional care or treatment of the child; OR IF the health care provider who is highly qualified by experience in the field of child abuse and neglect, as evidenced by special training or credentialing, renders a second opinion at the request of the department or any law enforcement agency, whether or not the health care provider has examined the child, rendered care or treatment, or made the report of harm; THEN The health care provider shall not be liable in any civil or criminal action that is based solely upon:

(A) The health care provider's decision to report what the provider believed to be harm;
(B) The health care provider's belief that reporting the harm was required by law;
(C) The fact that a report of harm was made; or
(D) The fact that an opinion as described in this subdivision (a)(1) was requested and provided.

(2) For the purposes of this subsection (a), by providing a second opinion, a report, information or records at the request of the department or any law enforcement agency the health care provider has satisfied all requirements to make a report of harm as required by §§ 37-1-403 and 37-1-605.

(3) As used in this subsection (a), “health care provider” means any physician, osteopathic physician, medical examiner, chiropractor, nurse, hospital personnel, mental health professional or other health care professional.

(4) Nothing in this subsection (a) shall be construed to confer any immunity upon a health care provider for a criminal or civil action arising out of the treatment of the child about whom the report of harm was made.

(5) (A) IF absolute immunity is not conferred upon a person pursuant to subdivision (a)(1); AND IF, acting in good faith, the person makes a report of harm, as required by § 37-1-403; THEN The person shall not be liable in any civil or criminal action that is based solely upon:

(i) The person's decision to report what the person believed to be harm;
(ii) The person's belief that reporting the harm was required by law; or
(iii) The fact that a report of harm was made.

(B) Because of the overriding public policy to encourage all persons to report the neglect of or harm or abuse to children, any person upon whom good faith immunity is conferred pursuant to this subdivision (a)(5) shall be presumed to have acted in good faith in making a report of harm.

(6) No immunity conferred pursuant to this subsection (a) shall attach if the person reporting the harm perpetrated or inflicted the abuse or caused the neglect.

(7) A person furnishing a report, information or records as required, requested, or authorized under this part shall have the same immunity and the same scope of immunity with respect to testimony such person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by this subsection (a) upon the person for making the report of harm.
(8) If the person furnishing a report, information or records during the normal course of the person's duties as required or authorized or requested under this part is different from the person originally reporting the harm, then the person furnishing the report, information or records shall have the same immunity and the same scope of immunity with respect to testimony the person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by this subsection (a) upon the person who made the original report of harm.

(b) Any person reporting under this part shall have a civil cause of action against any person who causes a detrimental change in the employment status of the reporting party by reason of the report.

§ 37-1-411. Evidentiary privileges not applicable to child abuse cases.
Tenn. Code Ann. § 37-1-411

Neither the husband-wife privilege as preserved in § 24-1-201, nor the psychiatrist-patient privilege as set forth in § 24-1-207, nor the psychologist-patient privilege as set forth in § 63-11-213 is a ground for excluding evidence regarding harm or the cause of harm to a child in any dependency and neglect proceeding resulting from a report of such harm under § 37-1-403 or a criminal prosecution for severe child abuse.

§ 37-1-412. Violation of duty to report – Power of juvenile court - Penalty.
Tenn. Code Ann. § 37-1-412

(a) Any person who knowingly fails to make a report required by § 37-1-403 commits a Class A misdemeanor.

(b) A juvenile court having reasonable cause to believe that a person is guilty of violating this section may have the person brought before the court either by summons or by warrant. If the defendant pleads not guilty, the juvenile court judge shall bind the defendant over to the grand jury. If the defendant pleads guilty and waives, in writing, indictment, presentment, grand jury investigation, and trial by jury, the juvenile court judge shall sentence the defendant under this section with a fine not to exceed two thousand five hundred dollars ($2,500).

§ 37-1-413. False reporting of child sexual abuse or false accusation that a child has sustained any wound, injury, disability or physical or mental condition caused by brutality, abuse or neglect – Penalty.
Tenn. Code Ann. § 37-1-413

Any person who either verbally or by written or printed communication knowingly and maliciously reports, or causes, encourages, aids, counsels or procures another to report, a false accusation of child sexual abuse or false accusation that a child has sustained any wound, injury, disability or physical or mental condition caused by brutality, abuse or neglect commits a Class E felony.

§ 37-1-605. Reports; investigation and investigators; medical examiners.
Tenn. Code Ann. § 37-1-605

(a) Any person including, but not limited to, any:
(1) Physician, osteopathic physician, medical examiner, chiropractor, nurse or hospital personnel engaged in the admission, examination, care or treatment of persons;
(2) Health or mental health professional other than one listed in subdivision (1);
(3) Practitioner who relies solely on spiritual means for healing;
(4) School teacher or other school official or personnel;
(5) Judge of any court of the state;
(6) Social worker, day care center worker, or other professional child care, foster care, residential or institutional worker;
(7) Law enforcement officer;
(8) Authority figure at a community facility, including any facility used for recreation or social assemblies, for educational, religious, social, health, or welfare purposes, including, but not limited to, facilities operated by schools, the boy or girl scouts, the YMCA or YWCA, the boys and girls club, or church or religious organizations; or
(9) Neighbor, relative, friend or any other person; who knows or has reasonable cause to suspect that a child has been sexually abused shall report such knowledge or suspicion to the department in the manner prescribed in subsection (b).

(b) Each report of known or suspected child sexual abuse pursuant to this section shall be made immediately to the local office of the department responsible for the investigation of reports made pursuant to this section or to the judge having juvenile jurisdiction or to the office of the sheriff or the chief law enforcement official of the municipality where the child resides. Each report of known or suspected child sexual abuse occurring in a facility licensed by the department of mental health and substance abuse services, as defined in § 33-2-403, or any hospital, shall also be made to the local law enforcement agency in the jurisdiction where such offense occurred. In addition to those procedures provided by this part, § 37-1-405 shall also apply to all cases reported hereunder.
(2) If a law enforcement official or judge becomes aware of known or suspected child sexual abuse, through personal knowledge, receipt of a report or otherwise, such information shall be reported to the department immediately and the child protective team shall be notified to investigate the report for the protection of the child in accordance with this part. Further criminal investigation by such official shall be appropriately conducted.
(3) Reports involving known or suspected institutional child sexual abuse shall be made and received in the same manner as all other reports made pursuant to this section.

(c) Any person required to report or investigate cases of suspected child sexual abuse who has reasonable cause to suspect that a child died as a result of child sexual abuse shall report such suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report the medical examiner's findings, in writing, to the local law enforcement agency, the appropriate district attorney general, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in § 37-1-612.

(d) Notwithstanding § 37-5-107 or § 37-1-612 or any other law to the contrary, if a school teacher, school official or any other school personnel has knowledge or reasonable cause to suspect that a child who attends such school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to this section and that the abuse occurred on school grounds or while the child was under the supervision or care of the school, then the principal or other person designated by the school shall verbally notify the parent or legal guardian of the child that a report
pursuant to this section has been made and shall provide other information relevant to the future well-being of the child while under the supervision or care of the school. The verbal notice shall be made in coordination with the department of children's services to the parent or legal guardian within twenty-four (24) hours from the time the school, school teacher, school official or other school personnel reports the abuse to the department of children's services; provided, that in no event may the notice be later than twenty-four (24) hours from the time the report was made. The notice shall not be given to any parent or legal guardian if there is reasonable cause to believe that the parent or legal guardian may be the perpetrator or in any way responsible for the child abuse or child sexual abuse.

(2) Once notice is given pursuant to subdivision (d)(1), the principal or other designated person shall provide to the parent or legal guardian all school information and records relevant to the alleged abuse or sexual abuse, if requested by the parent or legal guardian; provided, that the information is edited to protect the confidentiality of the identity of the person who made the report, any other person whose life or safety may be endangered by the disclosure, and any information made confidential pursuant to federal law or § 10-7-504(a)(4). The information and records described in this subdivision (d)(2) shall not include records of other agencies or departments.

(3) For purposes of this subsection (d), “school” means any public or privately operated child care agency, as defined in § 71-3-501, preschool, nursery school, kindergarten, elementary school or secondary school.

§ 37-1-611. Duties of department of children's services - Cooperation with department - Publicity and education program.

Tenn. Code Ann. § 37-1-611

(a) The department shall:

(1) Have prime responsibility for strengthening and improving child sexual abuse detection, prevention and treatment efforts;
(2) Seek and encourage the development of improved or additional programs and activities, the assumption of prevention and treatment responsibilities by additional agencies and organizations, and the coordination of existing programs and activities;
(3) To the fullest extent possible, cooperate with and seek cooperation of all appropriate public and private agencies, including health, education, social services, and law enforcement agencies, and courts, organizations, or programs providing or concerned with children's services related to the prevention, detection, intervention or treatment of child sexual abuse; and
(4) Provide ongoing protective, treatment and ameliorative services to, and on behalf of, children in need of protection to safeguard and ensure their well-being and, whenever possible, to preserve and stabilize family life.

(b) All state, county, and local agencies have a duty to give such cooperation, assistance, and information to the department as will enable it to fulfill its responsibilities.

(c) The department shall conduct a continuing publicity and education program to encourage the fullest degree of reporting of suspected child sexual abuse for staff and officials required to report and any other appropriate persons. The program shall include, but not be limited to, information concerning the responsibilities, obligations, and powers provided under this part; the methods for diagnosis of child sexual abuse; and the procedures of the child protective service program, the juvenile court, and other duly authorized agencies. In developing training programs for staff, the department shall place emphasis on preservice and inservice training for single intake, protective services, and foster care staff, which would include skills in diagnosis and treatment of child sexual abuse and procedures of the child protective
Tenn. Code Ann. § 37-1-612

(a) In order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, all records concerning reports of child sexual abuse, including files, reports, records, communications and working papers related to investigations or providing services; video tapes; reports made to the abuse registry and to local offices of the department; and all records generated as a result of such processes and reports, shall be confidential and exempt from other provisions of law, and shall not be disclosed, except as specifically authorized by chapter 5, part 5 of this title, this part and part 4 of this chapter.

(b) Except as otherwise provided in § 37-5-107, this part or part 4 of this chapter, it is unlawful for any person, except for purposes directly connected with the administration of this part, to disclose, receive, make use of, authorize or knowingly permit, participate in, or acquiesce to the use of any list or name, or any information concerning a report or investigation of a report of harm under this part, directly or indirectly derived from the records, papers, files or communications of the department or other entities authorized by law to assist the department when such information was acquired in the course of the performance of official duties. Disclosure may be made to persons and entities directly involved in administration of this part, including:
   (1) Department employees, medical professionals, and contract or other agency employees who provide services, including those from child advocacy centers, to children and families; and
   (2) The attorney or guardian ad litem for a child who is the subject of the records. Information shared with such persons and entities does not lose its character as confidential.

(c) In addition to such other purposes as may be directly connected with the administration of this part, access to such records, excluding the name of the reporter, which shall be released only as provided in subsection (g), shall be granted to the following persons, officials, or agencies for the following purposes:
   (1) A law enforcement agency investigating a report of known or suspected child sexual abuse;
   (2) The district attorney general of the judicial district in which the child resides or in which the alleged abuse occurred;
   (3) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business;
   (4) Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher unless such information is absolutely essential to the research purpose, suitable provision is made to maintain the confidentiality of the data and the department has given written approval;
   (5) A court official, probation and parole officer, designated employee of the department of correction or board of probation and parole or other similarly situated individual charged with the responsibility of preparing information to be presented in any administrative or judicial proceeding concerning any individual charged with or convicted of any offense involving child abuse or neglect or child sexual abuse;
   (6) An attorney or next friend who is authorized to act on behalf of the child, who is the subject of the records, for the purpose of recovering damages or other remedies authorized by law in a civil cause of action against the perpetrator or other person or persons who may be responsible for the actions of the perpetrator;
(7) An attorney or next friend who is authorized to act on behalf of another child, who has been the victim of other abuse by the same perpetrator, for the purpose of recovering damages or other remedies authorized by law in a civil cause of action against the perpetrator or other person or persons who may be responsible for the actions of the perpetrator against such other child; provided, however, that:

(A) The name and identity of such other child shall be revealed only to the attorney or next friend of such other child, to the parties and to their respective counsel in the civil cause of action in which such damages or other remedies are sought, and to the trial judge who presides over the action;
(B) An appropriate protective order must be entered prior to such disclosure; and
(C) Before any attempt is made to introduce into evidence in the civil cause of action either the records or information obtained from the records, written consent must be obtained from:
   (i) Each parent or guardian having sole or joint custody of such other child, if the child has not yet attained the age of majority; or
   (ii) The former child, if such child has now attained the age of majority; and

(8) Members of the Tennessee claims commission, its staff and employees of the division of claims and risk management for the purpose of determining if:

(A) A claim filed with the commission based on facts contained in the record constitutes a compensable criminal offense under the Criminal Injuries Compensation Act, compiled in title 29, chapter 13;
(B) The offense alleged occurred; and
(C) The claimant's injuries were the result of the offense.

(d) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the child or the person perpetrating the sexual abuse.

(e) The department may confirm whether a child sexual abuse investigation has been commenced, but may not divulge, except as permitted under this part, any details about the case, including, but not limited to, the name of the reporter, the alleged victim, or the alleged perpetrator.

(f) The department shall adopt such rules as may be necessary to carry out the following purposes:

(1) The establishment of administrative and due process procedures for the disclosure of the contents of its files and the results of its investigations for the purpose of protecting children from child sexual abuse; and
(2) For other purposes directly connected with the administration of this chapter, including, but not limited to, cooperation with schools, child care agencies, residential and institutional child care providers, child protection agencies, individuals providing care or protection for the child, medical and mental health personnel providing care for the child and the child's family and the perpetrator of any form of child abuse or neglect, law enforcement agencies, the judicial and correctional systems, and for cooperation with scientific and governmental research on child abuse and neglect.

(g) The name of any person reporting child sexual abuse shall in no case be released to any person other than employees of the department or other child protection team members responsible for child protective services, the abuse registry, or the appropriate district attorney general upon subpoena of the Tennessee bureau of investigation without the written consent of the person reporting. This shall not
prohibit the subpoenaing of a person reporting child sexual abuse when deemed necessary by the district attorney general or the department to protect a child who is the subject of a report; provided, that the fact that such person made the report is not disclosed. Any person who reports a case of child sexual abuse may, at the time the person makes the report, request that the department notify such person that a child protective investigation occurred as a result of the report. The department shall mail such a notice to the reporter within ten (10) days of the completion of the child protective investigation.

(h) For purposes directly connected with the administration of this part and part 4 of this chapter, the department may disclose any relevant information to the court, administrative board or hearing officer, the parties, or their legal representatives in any proceeding that may be brought in any court, or before any administrative board or hearing officer, for the purpose of protecting a child or children from child abuse or neglect or child sexual abuse. In the event of any disagreement between the department and any other parties as to what information should be disclosed, the court, administrative board or hearing officer may enter an order allowing access to any information that it finds necessary for the proper disposition of the case. The court, administrative board or hearing officer may order any information disclosed in such proceeding to be placed and kept under seal and not to be open to public inspection to the extent it finds it necessary to protect the child. This provision shall not be construed to allow any person to gain access to any identifying information about a child who is not the subject of the proceeding.

§ 37-1-613. Immunity from civil or criminal liability.
Tenn. Code Ann. § 37-1-614

Any person making a report of child sexual abuse shall be afforded the same immunity and shall have the same remedies as provided by § 37-1-410 for other persons reporting harm to a child. Any other person, official or institution participating in good faith in any act authorized or required by this part shall be immune from any civil or criminal liability that might otherwise result by reason of such action.

§ 37-1-614. Evidentiary privileges inapplicable in child sexual abuse cases.
Tenn. Code Ann. § 37-1-614

The privileged quality of communication between husband and wife and between any professional person and the professional person's patient or client, and any other privileged communication, except that between attorney and client, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any situation involving known or suspected child sexual abuse and shall not constitute grounds for failure to report as required by this part, failure to cooperate with the department in its activities pursuant to this part, or failure to give evidence in any judicial proceeding relating to child sexual abuse.

§ 49-6-304. Toll-free number for reports of child abuse - Posting in area visible to all students - Other signage requirements.
Tenn. Code Ann. § 49-6-304

(a) Every elementary and secondary school shall post in a clearly visible location in a public area of the school that is readily accessible to students a sign that contains the toll-free telephone number operated by the department of children's services to receive reports of child abuse or neglect.
(b) The sign shall be written using a format and language that is clear, simple, and understandable to students. The sign shall additionally also instruct students to call 911 for emergencies and provide directions for accessing the department of children's services web site for more information on reporting abuse, neglect, and exploitation.

(c) Schools shall post the sign at each school campus in at least one (1) high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The sign shall be on paper of eight and one-half inches (8/4") by eleven inches (11") or larger in large print and placed at eye level to the student for easy viewing. Additionally, the current toll-free department of children's services abuse telephone number shall be in bold print.

§ 49-6-1601. Reporting suspected abuse - Notice to parent or guardian - Confidentiality - Publication of requirements.

Tenn. Code Ann. § 49-6-1602

(a) Notwithstanding § 37-5-107 or § 37-1-612 or any other law to the contrary, if a school teacher, school official or any other school personnel has knowledge or reasonable cause to suspect that a child who attends the school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to § 37-1-403 or § 37-1-605 and that the abuse occurred on school grounds or while the child was under the supervision or care of the school, then the principal or other person designated by the school shall verbally notify the parent or legal guardian of the child that a report pursuant to this section has been made and shall provide other information relevant to the future well being of the child while under the supervision or care of the school. The verbal notice shall be made in coordination with the department of children's services to the parent or legal guardian within twenty-four (24) hours from the time the school, school teacher, school official or other school personnel reports the abuse to the department, judge or law enforcement; provided, that in no event may the notice be later than twenty-four (24) hours from the time the report was made. The notice shall not be given to any parent or legal guardian if there is reasonable cause to believe that the parent or legal guardian may be the perpetrator or in any way responsible for the child abuse or child sexual abuse.

(b) Once notice is given pursuant to this section, the principal or other designated person shall provide to the parent or legal guardian all school information and records relevant to the alleged abuse or sexual abuse, if requested by the parent or legal guardian; provided, that the information is edited to protect the confidentiality of the identity of the person who made the report, any other person whose life or safety may be endangered by the disclosure and any information made confidential pursuant to federal law or § 10-7-504(a)(4). The information and records described in this section shall not include records of other agencies or departments.

(c) For purposes of this section, "school" means any public or privately operated child care agency, as defined in § 71-3-501, preschool, nursery school, kindergarten, elementary school or secondary school.

(d) Each LEA shall publish the requirements of this section in the LEA's policies and procedures manual.

Tex. Fam. Code Ann. § 33.008

(a) If a minor claims to have been physically or sexually abused or a physician or physician's agent has reason to believe that a minor has been physically or sexually abused, the physician or physician's agent shall immediately report the suspected abuse and the name of the abuser to the Department of Family and Protective Services and to a local law enforcement agency and shall refer the minor to the department for services or intervention that may be in the best interest of the minor. The local law enforcement agency shall respond and shall write a report within 24 hours of being notified of the alleged abuse. A report shall be made regardless of whether the local law enforcement agency knows or suspects that a report about the abuse may have previously been made.

(b) The appropriate local law enforcement agency and the Department of Family and Protective Services shall investigate suspected abuse reported under this section and, if warranted, shall refer the case to the appropriate prosecuting authority.

(c) When the local law enforcement agency responds to the report of physical or sexual abuse as required by Subsection (a), a law enforcement officer or appropriate agent from the Department of Family and Protective Services may take emergency possession of the minor without a court order to protect the health and safety of the minor as described by Chapter 262.

Tex. Fam. Code Ann. § 33.0085

(a) Notwithstanding any other law, a judge or justice who, as a result of court proceedings conducted under Section 33.003 or 33.004, has reason to believe that a minor has been or may be physically or sexually abused shall:

(1) immediately report the suspected abuse and the name of the abuser to the Department of Family and Protective Services and to a local law enforcement agency; and

(2) refer the minor to the department for services or intervention that may be in the best interest of the minor.

(b) The appropriate local law enforcement agency and the Department of Family and Protective Services shall investigate suspected abuse reported under this section and, if warranted, shall refer the case to the appropriate prosecuting authority.

Tex. Fam. Code § 42.04261. Other training of personnel: child-placing agencies and day-care centers.
Tex. Fam. Code Ann. § 42.04261

(a) Notwithstanding Section 42.0426(a)(1), a child-placing agency or day-care center shall provide training for staff members in prevention techniques for and the recognition of symptoms of sexual abuse and other maltreatment of children and the responsibility and procedure of reporting suspected occurrences of sexual abuse and other maltreatment of children to the department or other appropriate entity.

(b) The type of training required under Subsection (a) shall be determined by department rule. The training must be provided for at least an hour annually and must include training concerning:

(1) factors indicating a child is at risk for sexual abuse or other maltreatment;

(2) likely warning signs indicating a child may be a victim of sexual abuse or
other maltreatment;
(3) internal procedures for reporting sexual abuse or other maltreatment; and
(4) community organizations that have existing training programs that are able to provide training or other education for child-placing agency or day-care center staff members, children, and parents.

(c) If a child-placing agency or day-care center determines that it does not have sufficient resources to provide the training required under this section, the agency or center may contact a department licensing employee to obtain information concerning community organizations that will provide such training at no cost to the agency or center.

Tex. Fam. Code Ann § 153.013

(a) If a party to a pending suit affecting the parent-child relationship makes a report alleging child abuse by another party to the suit that the reporting party knows lacks a factual foundation, the court shall deem the report to be a knowingly false report.

(b) Evidence of a false report of child abuse is admissible in a suit between the involved parties regarding the terms of conservatorship of a child.

(c) If the court makes a finding under Subsection (a), the court shall impose a civil penalty not to exceed $500.

Tex. Fam. Code Ann. § 261.101

(a) A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.

(b) If a professional has cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Section 21.11, Penal Code, and the professional has cause to believe that the child has been abused as defined by Section 261.001, the professional shall make a report not later than the 48th hour after the hour the professional first suspects that the child has been or may be abused or neglected or is a victim of an offense under Section 21.11, Penal Code. A professional may not delegate to or rely on another person to make the report. In this subsection, “professional” means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers.

(b-1) In addition to the duty to make a report under Subsection (a) or (b), a person or professional shall make a report in the manner required by Subsection (a) or (b), as applicable, if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of:
(1) another child; or
(2) an elderly person or person with a disability as defined by Section 48.002, Human Resources Code.
(c) The requirement to report under this section applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, an employee or member of a board that licenses or certifies a professional, and an employee of a clinic or health care facility that provides reproductive services.

(d) Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only:

(1) as provided by Section 261.201; or
(2) to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

**Tex. Fam. Code § 261.102. Matters to be reported.**
*Tex. Fam. Code Ann. § 261.102*

A report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect.

**Tex. Fam. Code § 261.103. Report made to appropriate agency.**
*Tex. Fam. Code Ann. § 261.103*

(a) Except as provided by Subsections (b) and (c) and Section 261.405, a report shall be made to:

(1) any local or state law enforcement agency;
(2) the department; or
(3) the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.

(b) A report may be made to the Texas Juvenile Justice Department instead of the entities listed under Subsection (a) if the report is based on information provided by a child while under the supervision of the Texas Juvenile Justice Department concerning the child's alleged abuse of another child.

(c) Notwithstanding Subsection (a), a report, other than a report under Subsection (a) (3) or Section 261.405, must be made to the department if the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child.

**Tex. Fam. Code § 261.104. Contents of report.**
*Tex. Fam. Code Ann. § 261.104*

The person making a report shall identify, if known:

(1) the name and address of the child;
(2) the name and address of the person responsible for the care, custody, or welfare of the child; and
(3) any other pertinent information concerning the alleged or suspected abuse or neglect.

**Tex. Fam. Code § 261.106. Immunities.**
*Tex. Fam. Code Ann. § 261.106*

(a) A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from civil or criminal liability that might otherwise be incurred or
(b) Immunity from civil and criminal liability extends to an authorized volunteer of the department or a law enforcement officer who participates at the request of the department in an investigation of alleged or suspected abuse or neglect or in an action arising from an investigation if the person was acting in good faith and in the scope of the person's responsibilities.

(c) A person who reports the person's own abuse or neglect of a child or who acts in bad faith or with malicious purpose in reporting alleged child abuse or neglect is not immune from civil or criminal liability.

**Tex. Fam. Code § 261.107. False report; criminal penalty; civil penalty.**

**Tex. Fam. Code Ann. § 261.107**

(a) A person commits an offense if, with the intent to deceive, the person knowingly makes a report as provided in this chapter that is false. An offense under this subsection is a state jail felony unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a felony of the third degree.

(b) A finding by a court in a suit affecting the parent-child relationship that a report made under this chapter before or during the suit was false or lacking factual foundation may be grounds for the court to modify an order providing for possession of or access to the child who was the subject of the report by restricting further access to the child by the person who made the report.

(c) The appropriate county prosecuting attorney shall be responsible for the prosecution of an offense under this section.

(d) The court shall order a person who is convicted of an offense under Subsection (a) to pay any reasonable attorney's fees incurred by the person who was falsely accused of abuse or neglect in any proceeding relating to the false report.

(e) A person who engages in conduct described by Subsection (a) is liable to the state for a civil penalty of $1,000. The attorney general shall bring an action to recover a civil penalty authorized by this subsection.

**Tex. Fam. Code § 261.108. Frivolous claims against person reporting.**

**Tex. Fam. Code Ann. § 261.108**

(a) In this section:

(1) "Claim" means an action or claim by a party, including a plaintiff, counterclaimant, cross-claimant, or third-party plaintiff, requesting recovery of damages.

(2) "Defendant" means a party against whom a claim is made.

(b) A court shall award a defendant reasonable attorney's fees and other expenses related to the defense of a claim filed against the defendant for damages or other relief arising from reporting or assisting in the investigation of a report under this chapter or participating in a judicial proceeding resulting from the report if:

(1) the court finds that the claim is frivolous, unreasonable, or without foundation because the defendant is immune from liability under Section 261.106; and

(2) the claim is dismissed or judgment is rendered for the defendant.

(c) To recover under this section, the defendant must, at any time after the filing of a claim, file a written motion stating that:
(1) the claim is frivolous, unreasonable, or without foundation because the defendant is immune from liability under Section 261.106; and
(2) the defendant requests the court to award reasonable attorney's fees and other expenses related to the defense of the claim.


(a) A person commits an offense if the person is required to make a report under Section 261.101(a) and knowingly fails to make a report as provided in this chapter.

(a-1) A person who is a professional as defined by Section 261.101(b) commits an offense if the person is required to make a report under Section 261.101(b) and knowingly fails to make a report as provided in this chapter.

(b) An offense under Subsection (a) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the child was a person with an intellectual disability who resided in a state supported living center, the ICF-IID component of the Rio Grande State Center, or a facility licensed under Chapter 252, Health and Safety Code, and the actor knew that the child had suffered serious bodily injury as a result of the abuse or neglect.

(c) An offense under Subsection (a-1) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the actor intended to conceal the abuse or neglect.

Tex. Fam. Code Ann. § 261.110

(a) In this section, "professional" has the meaning assigned by Section 261.101(b).

(b) An employer may not suspend or terminate the employment of, or otherwise discriminate against, a person who is a professional and who in good faith:
   (1) reports child abuse or neglect to:
      (A) the person's supervisor;
      (B) an administrator of the facility where the person is employed;
      (C) a state regulatory agency; or
      (D) a law enforcement agency;
   (2) initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

(c) A person whose employment is suspended or terminated or who is otherwise discriminated against in violation of this section may sue for injunctive relief, damages, or both.

(d) A plaintiff who prevails in a suit under this section may recover:
   (1) actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown;
   (2) exemplary damages under Chapter 41, Civil Practice and Remedies Code, if the employer is a private employer;
   (3) court costs; and
   (4) reasonable attorney's fees.

(e) In addition to amounts recovered under Subsection (d), a plaintiff who prevails in a suit under this section is entitled to:
   (1) reinstatement to the person's former position or a position that is comparable in terms of compensation, benefits, and other conditions of
employment;
(2) reinstatement of any fringe benefits and seniority rights lost because of the suspension, termination, or discrimination; and
(3) compensation for wages lost during the period of suspension or termination.

(f) A public employee who alleges a violation of this section may sue the employing state or local governmental entity for the relief provided for by this section. Sovereign immunity is waived and abolished to the extent of liability created by this section. A person having a claim under this section may sue a governmental unit for damages allowed by this section.

(g) In a suit under this section against an employing state or local governmental entity, a plaintiff may not recover compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses in an amount that exceeds:
   (1) $50,000, if the employing state or local governmental entity has fewer than 101 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;
   (2) $100,000, if the employing state or local governmental entity has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;
   (3) $200,000, if the employing state or local governmental entity has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year; and
   (4) $250,000, if the employing state or local governmental entity has more than 500 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year.

(h) If more than one subdivision of Subsection (g) applies to an employing state or local governmental entity, the amount of monetary damages that may be recovered from the entity in a suit brought under this section is governed by the applicable provision that provides the highest damage award.

(i) A plaintiff suing under this section has the burden of proof, except that there is a rebuttable presumption that the plaintiff's employment was suspended or terminated or that the plaintiff was otherwise discriminated against for reporting abuse or neglect if the suspension, termination, or discrimination occurs before the 61st day after the date on which the person made a report in good faith.

(j) A suit under this section may be brought in a district or county court of the county in which:
   (1) the plaintiff was employed by the defendant; or
   (2) the defendant conducts business.

(k) It is an affirmative defense to a suit under Subsection (b) that an employer would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee reported child abuse or neglect or initiated or cooperated with an investigation or proceeding relating to an allegation of child abuse or neglect.

(l) A public employee who has a cause of action under Chapter 554, Government Code, based on conduct described by Subsection (b) may not bring an action based on that conduct under this section.

(m) This section does not apply to a person who reports the person's own abuse or neglect of a child or who initiates or cooperates with an investigation or proceeding
by a governmental entity relating to an allegation of the person's own abuse or neglect of a child.


(a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

1. a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
2. except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

(b) A court may order the disclosure of information that is confidential under this section if:

1. a motion has been filed with the court requesting the release of the information;
2. a notice of hearing has been served on the investigating agency and all other interested parties; and
3. after hearing and an in camera review of the requested information, the court determines that the disclosure of the requested information is:
   - (A) essential to the administration of justice; and
   - (B) not likely to endanger the life or safety of:
     - (i) a child who is the subject of the report of alleged or suspected abuse or neglect;
     - (ii) a person who makes a report of alleged or suspected abuse or neglect; or
     - (iii) any other person who participates in an investigation of reported abuse or neglect or who provides care for the child.

(b-1) On a motion of one of the parties in a contested case before an administrative law judge relating to the license or certification of a professional, as defined by Section 261.101(b), or an educator, as defined by Section 5.001, Education Code, the administrative law judge may order the disclosure of information that is confidential under this section that relates to the matter before the administrative law judge after a hearing for which notice is provided as required by Subsection (b) (2) and making the review and determination required by Subsection (b)(3). Before the department may release information under this subsection, the department must edit the information to protect the confidentiality of the identity of any person who makes a report of abuse or neglect.

(c) In addition to Subsection (b), a court, on its own motion, may order disclosure of information that is confidential under this section if:

1. the order is rendered at a hearing for which all parties have been given notice;
2. the court finds that disclosure of the information is:
   - (A) essential to the administration of justice; and
   - (B) not likely to endanger the life or safety of:
     - (i) a child who is the subject of the report of alleged or suspected abuse or neglect;
     - (ii) a person who makes a report of alleged or suspected abuse or neglect; or
     - (iii) any other person who participates in an investigation of reported abuse or neglect.
of reported abuse or neglect or who provides care for the child; and

(3) the order is reduced to writing or made on the record in open court.

(d) The adoptive parents of a child who was the subject of an investigation and an adult who was the subject of an investigation as a child are entitled to examine and make copies of any report, record, working paper, or other information in the possession, custody, or control of the state that pertains to the history of the child. The department may edit the documents to protect the identity of the biological parents and any other person whose identity is confidential, unless this information is already known to the adoptive parents or is readily available through other sources, including the court records of a suit to terminate the parent-child relationship under Chapter 161.

(e) Before placing a child who was the subject of an investigation, the department shall notify the prospective adoptive parents of their right to examine any report, record, working paper, or other information in the possession, custody, or control of the department that pertains to the history of the child.

(f) The department shall provide prospective adoptive parents an opportunity to examine information under this section as early as practicable before placing a child.

(f-1) The department shall provide to a relative or other individual with whom a child is placed any information the department considers necessary to ensure that the relative or other individual is prepared to meet the needs of the child. The information required by this subsection may include information related to any abuse or neglect suffered by the child.

(g) Notwithstanding Subsection (b), the department, on request and subject to department rule, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if the department has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure.

(h) This section does not apply to an investigation of child abuse or neglect in a home or facility regulated under Chapter 42, Human Resources Code.

(i) Notwithstanding Subsection (a), the Texas Juvenile Justice Department shall release a report of alleged or suspected abuse or neglect made under this chapter if:

(1) the report relates to a report of abuse or neglect involving a child committed to the Texas Juvenile Justice Department during the period that the child is committed to that department; and

(2) the Texas Juvenile Justice Department is not prohibited by Chapter 552, Government Code, or other law from disclosing the report.

(j) The Texas Juvenile Justice Department shall edit any report disclosed under Subsection (i) to protect the identity of:

(1) a child who is the subject of the report of alleged or suspected abuse or neglect;

(2) the person who made the report; and

(3) any other person whose life or safety may be endangered by the disclosure.

(k) Notwithstanding Subsection (a), an investigating agency, other than the department or the Texas Juvenile Justice Department, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least
18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:
   (1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:
      (A) the child who is the subject of the report; or
      (B) another child of the parent, managing conservator, or other legal representative requesting the information;
   (2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law; and
   (3) the identity of the person who made the report.


In a proceeding regarding the abuse or neglect of a child, evidence may not be excluded on the ground of privileged communication except in the case of communications between an attorney and client.

Tex. Fam. Code Ann. § 261.303

(a) A person may not interfere with an investigation of a report of child abuse or neglect conducted by the department.

(b) If admission to the home, school, or any place where the child may be cannot be obtained, then for good cause shown the court having family law jurisdiction shall order the parent, the person responsible for the care of the children, or the person in charge of any place where the child may be to allow entrance for the interview, examination, and investigation.

(c) If a parent or person responsible for the child's care does not consent to release of the child's prior medical, psychological, or psychiatric records or to a medical, psychological, or psychiatric examination of the child that is requested by the department, the court having family law jurisdiction shall, for good cause shown, order the records to be released or the examination to be made at the times and places designated by the court.

(d) A person, including a medical facility, that makes a report under Subchapter B shall release to the department, as part of the required report under Section 261.103, records that directly relate to the suspected abuse or neglect without requiring parental consent or a court order. If a child is transferred from a reporting medical facility to another medical facility to treat the injury or condition that formed the basis for the original report, the transferee medical facility shall, at the department's request, release to the department records relating to the injury or condition without requiring parental consent or a court order.

(e) A person, including a utility company, that has confidential locating or identifying information regarding a family that is the subject of an investigation under this chapter shall release that information to the department on request. The release of information to the department as required by this subsection by a person, including a utility company, is not subject to Section 552.352, Government Code, or any other law...
providing liability for the release of confidential information.

**Tex. Fam. Code § 261.3031. Failure to cooperate with investigation; department response.**
*Tex. Fam. Code Ann. § 261.3031*

(a) If a parent or other person refuses to cooperate with the department's investigation of the alleged abuse or neglect of a child and the refusal poses a risk to the child's safety, the department shall seek assistance from the appropriate attorney with responsibility for representing the department as provided by Section 264.009 to obtain a court order as described by Section 261.303.

(b) A person's failure to report to an agency authorized to investigate abuse or neglect of a child within a reasonable time after receiving proper notice constitutes a refusal by the person to cooperate with the department's investigation. A summons may be issued to locate the person.

**Tex. Fam. Code § 261.3032. Interference with investigation; criminal penalty.**
*Tex. Fam. Code Ann. § 261.3032*

(a) A person commits an offense if, with the intent to interfere with the department's investigation of a report of abuse or neglect of a child, the person relocates the person's residence, either temporarily or permanently, without notifying the department of the address of the person's new residence or conceals the child and the person's relocation or concealment interferes with the department's investigation.

(b) An offense under this section is a Class B misdemeanor.

(c) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

**Tex. Fam. Code § 261.304. Investigation of anonymous report.**
*Tex. Fam. Code Ann. § 261.304*

(a) If the department receives an anonymous report of child abuse or neglect by a person responsible for a child's care, custody, or welfare, the department shall conduct a preliminary investigation to determine whether there is any evidence to corroborate the report.

(b) An investigation under this section may include a visit to the child's home, unless the alleged abuse or neglect can be confirmed or clearly ruled out without a home visit, an interview with and examination of the child, and an interview with the child's parents. In addition, the department may interview any other person the department believes may have relevant information.

(c) Unless the department determines that there is some evidence to corroborate the report of abuse, the department may not conduct the thorough investigation required by this chapter or take any action against the person accused of abuse.

*Tex. Fam. Code Ann. § 264.513*

(a) A person who knows of the death of a child younger than six years of age shall immediately report the death to the medical examiner of the county in which
the death occurs or, if the death occurs in a county that does not have a medical 
examiner's office or that is not part of a medical examiner's district, to a justice of the 
peace in that county.

(b) The requirement of this section is in addition to any other reporting requirement 
imposed by law, including any requirement that a person report child abuse or 
neglect under this code.

(c) A person is not required to report a death under this section that is the result of 
a motor vehicle accident. This subsection does not affect a duty imposed by another 
law to report a death that is the result of a motor vehicle accident.

**Tex. Educ. Code § 38.004. Child abuse reporting and programs.**

 Tex. Educ. Code § 38.004

(a) The agency shall develop a policy governing the reports of child abuse or neglect, 
including reports related to the trafficking of a child under Section 20A.02(a)(5), (6), 
(7), or (8), Penal Code, as required by Chapter 261, Family Code, for school districts, 
open-enrollment charter schools, and their employees. The policy must provide for 
cooperation with law enforcement child abuse investigations without the consent 
of the child's parents if necessary, including investigations by the Department of 
Family and Protective Services. The policy must require each school district and 
open-enrollment charter school employee to report child abuse or neglect, including 
the trafficking of a child under Section 20A.02(a)(5) or (7), Penal Code, in the manner 
required by Chapter 261, Family Code. Each school district and open-enrollment 
charter school shall adopt the policy.

(a-1) The agency shall:
1. maintain on the agency Internet website a list of links to websites that 
   provide information regarding the prevention of child abuse; and 
2. develop and periodically update a training program on prevention of child 
   abuse that a school district may use for staff development.

(b) Each school district shall provide child abuse antivictimization programs in 
elementary and secondary schools.


 Tex. Educ. Code § 51.9761

(a) In this section, “other maltreatment” has the meaning assigned by Section 42.002, 
Human Resources Code.

(b) Each institution of higher education shall adopt a policy governing the reporting of 
child abuse and neglect as required by Chapter 261, Family Code, for the institution 
and its employees. The policy must require each employee of the institution to report 
child abuse and neglect in the manner required by Chapter 261, Family Code.

(c) Each institution of higher education shall provide training for employees who are 
professionals as defined by Section 261.101, Family Code, in prevention techniques 
for and the recognition of symptoms of sexual abuse and other maltreatment of 
children and the responsibility and procedure of reporting suspected occurrences of 
sexual abuse and other maltreatment. The training must include:
1. techniques for reducing a child's risk of sexual abuse or other 
maltreatment;
2. factors indicating a child is at risk for sexual abuse or other maltreatment;
3. the warning signs and symptoms associated with sexual abuse or other 
maltreatment and recognition of those signs and symptoms; and
4. the requirements and procedures for reporting suspected sexual abuse
or other maltreatment as provided by Chapter 261, Family Code.


(a) A computer technician who, in the course and scope of employment or business, views an image on a computer that is or appears to be child pornography shall immediately report the discovery of the image to a local or state law enforcement agency or the Cyber Tipline at the National Center for Missing and Exploited Children. The report must include the name and address of the owner or person claiming a right to possession of the computer, if known, and as permitted by federal law.

(b) Except in a case of willful or wanton misconduct, a computer technician may not be held liable in a civil action for reporting or failing to report the discovery of an image under Subsection (a).

(c) A telecommunications provider, commercial mobile service provider, or information service provider may not be held liable under this chapter for the failure to report child pornography that is transmitted or stored by a user of the service.


(a) A person who intentionally fails to report an image in violation of this chapter commits an offense. An offense under this subsection is a Class B misdemeanor.

(b) It is a defense to prosecution under this section that the actor did not report the discovery of an image of child pornography because the child in the image appeared to be at least 18 years of age.


(a) The department shall assure the availability of community education programs designed to improve participation of the general public in preventing, identifying, and treating cases of child abuse or neglect, including parent education programs.

(b) The department shall assure that training concerning child abuse or neglect is available to professionals who are required by law to report, investigate, or litigate those cases.

**Tex. Hum. Res. Code § 42.04261. Other training of personnel: child-placing agencies and day-care centers.**

**Tex. Hum. Res. Code § 42.04261**

(a) Notwithstanding Section 42.0426(a)(1), a child-placing agency or day-care center shall provide training for staff members in prevention techniques for and the recognition of symptoms of sexual abuse and other maltreatment of children and the responsibility and procedure of reporting suspected occurrences of sexual abuse and other maltreatment of children to the department or other appropriate entity.

(b) The type of training required under Subsection (a) shall be determined by department rule. The training must be provided for at least an hour annually and must include training concerning:
(1) factors indicating a child is at risk for sexual abuse or other maltreatment;
(2) likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;
(3) internal procedures for reporting sexual abuse or other maltreatment; and
(4) community organizations that have existing training programs that are able to provide training or other education for child-placing agency or day-care center staff members, children, and parents.

(c) If a child-placing agency or day-care center determines that it does not have sufficient resources to provide the training required under this section, the agency or center may contact a department licensing employee to obtain information concerning community organizations that will provide such training at no cost to the agency or center.


(a) A provider of home and community-based services may not retaliate against a person for filing a report or providing information in good faith relating to the possible abuse, neglect, or exploitation of an individual receiving services.

(b) This section does not prohibit a provider of home and community-based services from terminating an employee for a reason other than retaliation.

Tex. Health and Safety Code § 141.0095

(a) A person holding a license issued under this chapter may not employ or accept the volunteer service of an individual for a position involving contact with campers at a youth camp unless:

(1) the individual submits to the person or the youth camp has on file documentation that verifies the individual within the preceding two years successfully completed the training and examination program required by this section; or
(2) the individual successfully completes the youth camp's training and examination program, which must be approved by the department as required by this section, during the individual's first workweek and the youth camp issues and files documentation verifying that fact.

(b) A person holding a license issued under this chapter must retain in the person's records a copy of the documentation required or issued under Subsection (a) for each employee or volunteer until the second anniversary of the examination date.

(c) A person applying for or holding an employee or volunteer position involving contact with campers at a youth camp must successfully complete the training and examination program on sexual abuse and child molestation required by this section during the applicable period described by Subsection (a).

(d) In accordance with this section, the executive commissioner by rule shall establish criteria and guidelines for training and examination programs on sexual abuse and child molestation. The department may approve training and examination programs offered by trainers under contract with youth camps or by online training organizations or may approve programs offered in another format authorized by the department.
(e) A training and examination program on sexual abuse and child molestation approved by the department must include training and an examination on:
   (1) the definitions and effects of sexual abuse and child molestation;
   (2) the typical patterns of behavior and methods of operation of child molesters and sex offenders that put children at risk;
   (3) the warning signs and symptoms associated with sexual abuse or child molestation, recognition of the signs and symptoms, and the recommended methods of reporting suspected abuse; and
   (4) the recommended rules and procedures for youth camps to implement to address, reduce, prevent, and report suspected sexual abuse or child molestation.

(f) The department may assess a fee in the amount set by the executive commissioner by rule as necessary to cover the costs of administering this section to each person that applies for the department's approval of a training and examination program on sexual abuse and child molestation under this section.

(g) The department at least every five years shall review each training and examination program on sexual abuse and child molestation approved by the department to ensure the program continues to meet the criteria and guidelines established by rule under this section.

Tex. Pen. Code § 38.17

(a) A person, other than a person who has a relationship with a child described by Section 22.04(b), commits an offense if:
   (1) the actor observes the commission or attempted commission of an offense prohibited by Section 21.02 or 22.021(a)(2)(B) under circumstances in which a reasonable person would believe that an offense of a sexual or assaultive nature was being committed or was about to be committed against the child;
   (2) the actor fails to assist the child or immediately report the commission of the offense to a peace officer or law enforcement agency; and
   (3) the actor could assist the child or immediately report the commission of the offense without placing the actor in danger of suffering serious bodily injury or death.
§ 62A-4a-402. Definitions.  
Utah Code Ann. § 62A-4a-402

As used in this part:

(1) “A person responsible for a child’s care” means the child’s parent, guardian, or other person responsible for the child’s care, whether in the same home as the child, a relative’s home, a group, family, or center day care facility, a foster care home, or a residential institution.

(2) “Subject” or “subject of the report” means any person reported under this part, including, but not limited to, a child, parent, guardian, or other person responsible for a child’s care.

§ 62A-4a-403. Reporting requirements.  
Utah Code Ann. § 62A-4a-403

(1)  
(a) Except as provided in Subsection (2), when any person including persons licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 31b, Nurse Practice Act, has reason to believe that a child has been subjected to abuse or neglect, or who observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately notify the nearest peace officer, law enforcement agency, or office of the division.

(b) Upon receipt of the notification described in Subsection (1)(a), the peace officer or law enforcement agency shall immediately notify the nearest office of the division. If an initial report of abuse or neglect is made to the division, the division shall immediately notify the appropriate local law enforcement agency. The division shall, in addition to its own investigation, comply with and lend support to investigations by law enforcement undertaken pursuant to a report made under this section.

(2) Subject to Subsection (3), the notification requirements of Subsection (1) do not apply to a clergyman or priest, without the consent of the person making the confession, with regard to any confession made to the clergyman or priest in the professional character of the clergyman or priest in the course of discipline enjoined by the church to which the clergyman or priest belongs, if:

   (a) the confession was made directly to the clergyman or priest by the perpetrator; and
   (b) the clergyman or priest is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession.

(3)  
(a) When a clergyman or priest receives information about abuse or neglect from any source other than confession of the perpetrator, the clergyman or priest is required to give notification on the basis of that information even though the clergyman or priest may have also received a report of abuse or neglect from the confession of the perpetrator.

   (b) Exemption of notification requirements for a clergyman or priest does not exempt a clergyman or priest from any other efforts required by law to prevent further abuse or neglect by the perpetrator.

§ 62A-4a-404. Fetal alcohol syndrome and drug dependency - Reporting requirements.  
Utah Code Ann. § 62A-4a-404
When an individual, including a licensee under the Medical Practice Act or the Nurse Practice Act, attends the birth of a child or cares for a child, and determines that the child, at the time of birth, has fetal alcohol syndrome, fetal alcohol spectrum disorder, or fetal drug dependency, the individual shall report that determination to the division as soon as possible.

§ 62A-4a-405. Death of child - Reporting requirements.
Utah Code Ann. § 62A-4a-405
(1) Any person who has reason to believe that a child has died as a result of abuse or neglect shall report that fact to:
   (a) the local law enforcement agency, who shall report to the county attorney or district attorney as provided under Section 17-18a-202 or 17-18a-203; and
   (b) the appropriate medical examiner in accordance with Title 26, Chapter 4, Utah Medical Examiner Act.

(2) After receiving a report described in Subsection (1), the medical examiner shall investigate and report the medical examiner's findings to:
   (a) the police;
   (b) the appropriate county attorney or district attorney;
   (c) the attorney general's office;
   (d) the division; and
   (e) if the institution making the report is a hospital, to that hospital.

§ 62A-4a-406. Photographs.
Utah Code Ann. § 62A-4a-406
(1) Any physician, surgeon, medical examiner, peace officer, law enforcement official, or public health officer or official may take photographs of the areas of trauma visible on a child and, if medically indicated, perform radiological examinations.

(2) Photographs may be taken of the premises or of objects relevant to a reported circumstance of abuse or neglect.

(3) Photographs or X-rays, and all other medical records pertinent to an investigation for abuse or neglect shall be made available to the division, law enforcement officials, and the court.

Utah Code Ann. § 62A-4a-407
(1) A physician examining or treating a child may take the child into protective custody not to exceed 72 hours, without the consent of the child's parent, guardian, or any other person responsible for the child's care or exercising temporary or permanent control over the child, when the physician has reason to believe that the child's life or safety will be in danger unless protective custody is exercised.

(2) The person in charge of a hospital or similar medical facility may retain protective custody of a child suspected of being abused or neglected, when he reasonably believes the facts warrant that retention. This action may be taken regardless of whether additional medical treatment is required, and regardless of whether the person responsible for the child's care requests the child's return.

(3) The division shall be immediately notified of protective custody exercised under this section. Protective custody under this section may not exceed 72 hours without an order of the district or juvenile court.
A person who takes a child into, or retains a child in, protective custody under this section shall document:

(a) the grounds upon which the child was taken into, or retained in, protective custody; and
(b) the nature of, and necessity for, any medical care or treatment provided to the child.

§ 62A-4a-408. Written reports.
Utah Code Ann. § 62A-4a-408

(1) Reports made pursuant to this part shall be followed by a written report within 48 hours, if requested by the division. The division shall immediately forward a copy of that report to the statewide central register, on forms supplied by the register.

(2) If, in connection with an intended or completed abortion by a minor, a physician is required to make a report of incest or abuse of a minor, the report may not include information that would in any way disclose that the report was made in connection with:

(a) an abortion; or
(b) a consultation regarding an abortion.

Utah Code Ann. § 62A-4a-410

(1) Except as provided in Subsection (3), any person, official, or institution participating in good faith in making a report, taking photographs or X-rays, assisting an investigator from the division, serving as a member of a child protection team, or taking a child into protective custody pursuant to this part, is immune from any liability, civil or criminal, that otherwise might result by reason of those actions.

(2) This section does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(3) The immunity described in Subsection (1) does not apply if the person, official, or institution:

(a) acted or failed to act through fraud or willful misconduct;
(b) in a judicial or administrative proceeding, intentionally or knowingly gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false testimony material to the issue or matter of inquiry in the proceeding; or
(c) intentionally or knowingly:

(i) fabricated evidence; or
(ii) except as provided in Subsection (4), with a conscious disregard for the rights of others, failed to disclose evidence that:

(A) was known to the person, official, or institution; and
(B)

(l) was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in a pending judicial or administrative proceeding if the person, official, or institution knew of the pending judicial or administrative proceeding; or

(II) was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in a judicial or administrative proceeding, if disclosure of the evidence was requested of the
employee by a party to the proceeding or counsel for a party to the proceeding.

(4) Immunity is not lost under Subsection (3)(c)(ii), if the person, official, or institution:
(a) failed to disclose evidence described in Subsection (3)(c)(ii), because the person, official, or institution is prohibited by law from disclosing the evidence; or
(b) (i) pursuant to the provisions of 45 CFR 164.502(g)(5), refused to disclose evidence described in Subsection (3)(c)(ii) to a person who requested the evidence; and
(ii) after refusing to disclose the evidence under Subsection (4)(b)(i), complied with or responded to a valid court order or valid subpoena received by the person, official, or institution to disclose the evidence described in Subsection (3)(c)(ii).

§ 62A-4a-411. Failure to report - Criminal penalty.
Utah Code Ann. § 62A-4a-411

Any person, official, or institution required to report a case of suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency, who willfully fails to do so is guilty of a class B misdemeanor. Action for failure to report must be commenced within four years from the date of knowledge of the offense and the willful failure to report.

§ 62A-4a-412. Reports and information confidential.
Utah Code Ann. § 62A-4a-412

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:
(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection unit;
(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;
(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;
(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;
(e) except as provided in Subsection 63G-2-202(10), a subject of the report, the natural parents of the child, and the guardian ad litem;
(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:
(i) limited to objective or undisputed facts that were verified at the time of the investigation; and
(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or neglect of another person;
(g) an office of the public prosecutor or its deputies in performing an official duty;
(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;
(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;
(j) the State Board of Education, acting on behalf of itself or on behalf of a school district, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any person identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130; or

(n) an Indian tribe to:
   (i) certify or license a foster home;
   (ii) render services to a subject of a report; or
   (iii) investigate an allegation of abuse, neglect, or dependency.

(2) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that it is a violation of Subsection (2)(a) to do so is subject to the criminal penalty in Subsection (4).

(3) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in its subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in its possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:
   (i) identify the referent;
   (ii) impede a criminal investigation; or
   (iii) endanger a person's safety.

(4) Any person who wilfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) The physician-patient privilege is not a ground for excluding evidence regarding a child's injuries or the cause of those injuries, in any proceeding resulting from a report made in good faith pursuant to this part.

(6) A child-placing agency or person who receives a report in connection with a
preplacement adoptive evaluation pursuant to Sections 78B-6-128 and 78B-6-130:
(a) may provide this report to the person who is the subject of the report; and
(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

§ 62A-4a-1007. False reports – Penalties.
Utah Code Ann. § 62A-4a-1007

(1) The division shall send a certified letter to any person who submits a report of abuse or neglect that is placed into or included in any part of the Management Information System, if the division determines, at the conclusion of its investigation, that:
(a) the report is false;
(b) it is more likely than not that the person knew the report was false at the time that person submitted the report; and
(c) the reporting person's address is known or reasonably available.

(2) The letter shall inform the reporting person of:
(a) the division's determination made under Subsection (1);
(b) the penalty for submitting false information under Section 76-8-506 and other applicable laws; and
(c) the obligation of the division to inform law enforcement and the person alleged to have committed abuse or neglect:
   (i) in the present instance if law enforcement considers an immediate referral of the reporting person to law enforcement to be justified by the facts; or
   (ii) if the reporting person submits a subsequent false report involving the same alleged perpetrator or victim.

(3) The division may inform law enforcement and the alleged perpetrator of a report for which a letter is required to be sent under Subsection (1), if an immediate referral is justified by the facts.

(4) The division shall inform law enforcement and the alleged perpetrator of a report for which a letter is required to be sent under Subsection (1) if a second letter is sent to the reporting person involving the same alleged perpetrator or victim.

(5) The division shall determine, in consultation with law enforcement:
(a) what information should be given to an alleged perpetrator relating to a false report; and
(b) whether good cause exists, as defined by the division by rule, for not informing an alleged perpetrator about a false report.

(6) Nothing in this section may be construed as requiring the division to conduct an investigation beyond what is described in Subsection (1), to determine whether or not a report is false.

Utah Code Ann. § 53A-11-605

(1) As used in this section:
(a) “Health care professional” means a physician, physician assistant, nurse, dentist, or mental health therapist.
(b) “School personnel” means a school district or charter school employee, including a licensed, part-time, contract, or nonlicensed employee.

(2) School personnel may:
(a) provide information and observations to a student’s parent or guardian about that student, including observations and concerns in the following areas:
   (i) progress;
   (ii) health and wellness;
   (iii) social interactions;
   (iv) behavior; or
   (v) topics consistent with Subsection 53A-13-302(6);
(b) communicate information and observations between school personnel regarding a child;
(c) refer students to other appropriate school personnel and agents, consistent with local school board or charter school policy, including referrals and communication with a school counselor or other mental health professionals working within the school system;
(d) consult or use appropriate health care professionals in the event of an emergency while the student is at school, consistent with the student emergency information provided at student enrollment;
(e) exercise their authority relating to the placement within the school or readmission of a child who may be or has been suspended or expelled for a violation of Section 53A-11-904; and
(f) complete a behavioral health evaluation form if requested by a student’s parent or guardian to provide information to a licensed physician.

(3) School personnel shall:
(a) report suspected child abuse consistent with Section 62A-4a-403;
(b) comply with applicable state and local health department laws, rules, and policies; and
(c) conduct evaluations and assessments consistent with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.

(4) Except as provided in Subsection (2), Subsection (6), and Section 53A-11a-203, school personnel may not:
(a) recommend to a parent or guardian that a child take or continue to take a psychotropic medication;
(b) require that a student take or continue to take a psychotropic medication as a condition for attending school;
(c) recommend that a parent or guardian seek or use a type of psychiatric or psychological treatment for a child;
(d) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments; or
(e) make a child abuse or neglect report to authorities, including the Division of Child and Family Services, solely or primarily on the basis that a parent or guardian refuses to consent to:
   (i) a psychiatric, psychological, or behavioral treatment for a child, including the administration of a psychotropic medication to a child; or
   (ii) a psychiatric or behavioral health evaluation of a child.

(5) Notwithstanding Subsection (4)(e), school personnel may make a report that would otherwise be prohibited under Subsection (4)(e) if failure to take the action described under Subsection (4)(e) would present a serious, imminent risk to the child’s safety or the safety of others.

(6) Notwithstanding Subsection (4), a school counselor or other mental health
professional acting in accordance with Title 58, Chapter 60, Mental Health Professional Practice Act, or licensed through the State Board of Education, working within the school system may:
(a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;
(b) recommend, but not require, psychiatric, psychological, or behavioral treatment for a child;
(c) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child in accordance with Section 53A-13-302; and
(d) provide to a parent or guardian, upon the specific request of the parent or guardian, a list of three or more health care professionals or providers, including licensed physicians, psychologists, or other health specialists.

(7) Local school boards or charter schools shall adopt a policy:
(a) providing for training of appropriate school personnel on the provisions of this section; and
(b) indicating that an intentional violation of this section is cause for disciplinary action consistent with local school board or charter school policy and under Section 53A-8a-502.

(8) Nothing in this section shall be interpreted as discouraging general communication not prohibited by this section between school personnel and a student's parent or guardian.

§ 53A-6-502. Mandatory reporting of physical or sexual abuse of students.
Utah Code Ann. § 53A-6-502

(1) For purposes of this section, “educator” means, in addition to a person included under Section 53A-6-103, a person, including a volunteer or temporary employee, who at the time of an alleged offense was performing a function in a private school for which a license would be required in a public school.

(2) In addition to any duty to report suspected cases of child abuse or neglect under Section 62A-4a-403, an educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report the belief and all other relevant information to the school principal, to the superintendent, or to the board.

(3) A school administrator who has received a report under Subsection (2) or who otherwise has reasonable cause to believe that a student may have been physically or sexually abused by an educator shall immediately report that information to the board.

(4) Upon notice that an educator allegedly violated Subsection (2) or (3), the board shall direct UPPAC to investigate the educator's alleged violation as described in Section 53A-6-501.

(5) A person who makes a report under this section in good faith shall be immune from civil or criminal liability that might otherwise arise by reason of that report.

§ 76-10-1204.5. Reporting of child pornography by a computer technician.
Utah Code Ann. § 76-10-1204.5

(1) As used in this section:
   (a) “Child pornography” means the same as that term is defined in Section 76-5b-103.
(b) “Computer technician” or “technician” means an individual who in the course and scope of the individual's employment for compensation installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.
(c) “Image” means an image of child pornography or an image that a computer technician reasonably believes is child pornography.

(2)

(a) A computer technician who in the course of employment for compensation views an image on a computer or other electronic device that is or appears to be child pornography shall immediately report the finding of the image to:
   (i) a state or local law enforcement agency, or the Cyber Tip Line at the National Center for Missing and Exploited Children; or
   (ii) an employee designated by the employer of the computer technician in accordance with Subsection (3).
(b) A computer technician who willfully does not report an image as required under Subsection (2)(a) is guilty of a class B misdemeanor.
(c) The identity of the computer technician who reports an image shall be confidential, except as necessary for the criminal investigation and the judicial process.
(d)
   (i) If the computer technician makes or does not make a report under this section in good faith, the technician is immune from any criminal or civil liability related to reporting or not reporting the image.
   (ii) In this Subsection (2)(d), good faith may be presumed from an employee's or employer's previous course of conduct when the employee or employer has made appropriate reports.
(e) It is a defense to prosecution under this section that the computer technician did not report the image because the technician reasonably believed the image did not depict a person younger than 18 years of age.

(3)

(a) An employer of a computer technician may implement a procedure that requires:
   (i) the computer technician report an image as is required under Subsection (2)(a) to an employee designated by the employer to receive the report of the image; and
   (ii) the designated employee to immediately forward the report provided by the computer technician to an agency under Subsection (2)(a)(i).
(b) Compliance by the computer technician and the designated employee with the reporting process under Subsection (3)(a) is compliance with the reporting requirement of this section and establishes immunity under Subsection (2)(d).

(4) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if the provider reports the image in compliance with 18 U.S.C. 2258A or a successor federal statute that requires reporting by a provider of an image of child pornography.
§ 13-3620. Duty to report abuse, physical injury, neglect and denial
or deprivation of medical or surgical care or nourishment of minors;
medical records; exception; violation; classification; definitions.

AZ Rev Stat § 13-3620.01

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

1. Any physician, physician's assistant, optometrist, dentist, osteopath,
   chiropractor, podiatrist, behavioral health professional, nurse, psychologist,
   counselor or social worker who develops the reasonable belief in the course
   of treating a patient.
2. Any peace officer, child welfare investigator, child safety worker, member
   of the clergy, priest or Christian Science practitioner.
3. The parent, stepparent or guardian of the minor.
4. School personnel, domestic violence victim advocates or sexual assault
   victim advocates who develop the reasonable belief in the course of their
   employment.
5. Any other person who has responsibility for the care or treatment of the
   minor.

B. A report is not required under this section either:
1. For conduct prescribed by sections 13-1404 and 13-1405 if the conduct involves
   only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is
   nothing to indicate that the conduct is other than consensual.
2. If a minor is of elementary school age, the physical injury occurs accidentally in the
   course of typical playground activity during a school day, occurs on the premises of
   the school that the minor attends and is reported to the legal parent or guardian of
   the minor and the school maintains a written record of the incident.

C. If a physician, psychologist or behavioral health professional receives a statement
from a person other than a parent, stepparent, guardian or custodian of the minor
during the course of providing sex offender treatment that is not court ordered or
that does not occur while the offender is incarcerated in the state department of
corrections or the department of juvenile corrections, the physician, psychologist or
behavioral health professional may withhold the reporting of that statement if the
physician, psychologist or behavioral health professional determines it is reasonable
and necessary to accomplish the purposes of the treatment.
D. Reports shall be made immediately either electronically or by telephone. The reports shall contain the following information, if known:
   1. The names and addresses of the minor and the minor’s parents or the person or persons having custody of the minor.
   2. The minor’s age and the nature and extent of the minor’s abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.
   3. Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

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

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

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

H. When reports are received by a peace officer, the officer shall immediately notify the department of child safety. Notwithstanding any other statute, when the department receives these reports, it shall immediately notify a peace officer in the appropriate jurisdiction.

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

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

K. Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:
   1. Civil or criminal litigation or administrative proceeding in which a minor’s neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.
   2. Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.
3. Investigation of a minor’s child abuse, physical injury, neglect or abuse conducted by a peace officer or the department of child safety.

L. In any civil or criminal litigation in which a child’s neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a Christian Science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the clergy, a Christian Science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. This subsection does not discharge a member of the clergy, a Christian Science practitioner or a priest from the duty to report pursuant to subsection A of this section.

M. If psychiatric records are requested pursuant to subsection G of this section, the custodian of the records shall notify the attending psychiatrist, who may excuse from the records, before they are made available:
   1. Personal information about individuals other than the patient.
   2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient’s health or treatment.

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

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

P. For the purposes of this section:
   1. “Abuse” has the same meaning prescribed in section 8-201.
   2. “Child abuse” means child abuse pursuant to section 13-3623.
   3. “Neglect” has the same meaning prescribed in section 8-201.
   4. “Reportable offense” means any of the following:
      (a) Any offense listed in chapters 14 and 35.1 of this title or section 13-3506.01.
      (b) Surreptitious photographing, videotaping, filming or digitally recording or viewing a minor pursuant to section 13-3019.
      (c) Child sex trafficking pursuant to section 13-3212.
      (d) Incest pursuant to section 13-3608.
      (e) Unlawful mutilation pursuant to section 13-1214.

§ 13-3620.01. False reports; violation; classification.
AZ Rev Stat § 13-3620.01

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

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

§ 13-3506.01. Furnishing harmful items to minors; internet activity; classification; definitions.
AZ Stat § 13-3506.01
A. It is unlawful for any person, with knowledge of the character of the item involved, to intentionally or knowingly transmit or send to a minor by means of electronic mail, personal messaging or any other direct internet communication an item that is harmful to minors when the person knows or believes at the time of the transmission that a minor in this state will receive the item.

B. This section does not apply to:
   1. Posting material on an internet web site, bulletin board or newsgroup.
   2. Sending material via a mailing list or listserv that is not administered by the sender. For the purposes of this paragraph, “mailing list” or “listserv” means a method of internet communication where a message is sent to an internet address and then is retransmitted to one or more subscribers to the mailing list or listserv.

C. It is not a defense to a prosecution for a violation of this section that the recipient of the transmission was a peace officer posing as a minor.

D. A violation of this section is a class 4 felony.

E. The failure to report a violation of this section is a class 6 felony as prescribed by section 13-3620.

F. For the purposes of this section:
   1. "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the transmission control protocol or internet protocol or any successor protocol to transmit information.
   2. "Internet web site" means a location where material placed in a computer server-based file archive is publicly accessible, over the internet, using hypertext transfer protocol or any successor protocol.

§ 13-3559. Reporting suspected visual depictions of sexual exploitation of a minor; immunity.
AZ Rev Stat § 13-3559

A. Any communication service provider, remote computing service, system administrator, computer repair technician or other person who discovers suspected visual depictions of sexual exploitation of a minor on a computer, computer system or network or in any other storage medium may report that discovery to a law enforcement officer.

B. A person who on discovery in good faith reports the discovery of suspected visual depictions involving the sexual exploitation of a minor is immune from civil liability.

C. It is an affirmative defense to a prosecution for a violation of section 13-3553 that on discovery a person in good faith reports the discovery of unsolicited suspected visual depictions involving the sexual exploitation of a minor.

§ 8-807. DCS information; public record; use; confidentiality; violation; classification; definition.
AZ Rev Stat § 8-807

A. DCS information shall be maintained by the department as required by federal law as a condition of the allocation of federal monies to this state. All exceptions for the public release of DCS information shall be construed as openly as possible under federal law.
B. The department, or a person who receives DCS information pursuant to this subsection, shall provide DCS information to a federal agency, a state agency, a tribal agency, a county or municipal agency, a law enforcement agency, a prosecutor, an attorney or a guardian ad litem representing a child victim of crime pursuant to article II, section 2.1, Constitution of Arizona, a school, a community service provider, a contract service provider or any other person that is providing services pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter:

1. To meet its duties to provide for the safety and permanency of a child, provide services to a parent, guardian or custodian or provide services to family members to strengthen the family pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter.

2. To enforce or prosecute any violation involving child abuse or neglect or to assert the rights of the child as a victim of a crime.

3. To provide information to a defendant after a criminal charge has been filed as required by an order of the criminal court.

4. To help investigate and prosecute any violation involving domestic violence as defined in section 13-3601 or violent sexual assault as prescribed in section 13-1423.

C. The department shall disclose DCS information to a court, a party in a dependency or termination of parental rights proceeding or the party's attorney, the foster care review board or a court appointed special advocate for the purposes of and as prescribed in this title.

D. The department shall disclose DCS information to a domestic relations, family or conciliation court if the DCS information is necessary to promote the safety and well-being of children. The court shall notify the parties that it has received the DCS information.

E. A person or agent of a person who is the subject of DCS information shall have access to DCS information concerning that person.

F. The department may provide:

1. DCS information to confirm, clarify, correct or supplement information concerning an allegation or actual instance of child abuse or neglect that has been made public by a source or sources outside the department.

2. DCS information to a person who is conducting bona fide research, the results of which might provide DCS information that is beneficial in improving the department.

3. Access to DCS information to the parent, guardian or custodian of a child if the DCS information is reasonably necessary to promote the safety, permanency and well-being of the child.

4. DCS information if an employee of the department has a reasonable belief that exigent circumstances exist. For the purposes of this paragraph, "exigent circumstances" means a condition or situation in which the death of or serious injury to a child will likely result in the near future without immediate intervention.

G. The department shall disclose DCS information to a county medical examiner or an alternate medical examiner directing an investigation into the circumstances surrounding a death pursuant to section 11-593.

H. Access to DCS information in the central registry shall be provided as prescribed in section 8-804.

I. To provide oversight of the department, the department shall provide access to DCS information to the following persons, if the DCS information is reasonably necessary for the person to perform the person's official duties:
1. Federal or state auditors.
2. Persons conducting any accreditation deemed necessary by the department.
3. A standing committee of the legislature or a committee appointed by the president of the senate or the speaker of the house of representatives for purposes of conducting investigations related to the legislative oversight of the department. This information shall not be further disclosed unless a court has ordered the disclosure of this information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding.
4. A legislator who requests DCS information in the regular course of the legislator's duties. A legislator may discuss this information with another legislator if the other legislator has signed the form prescribed in subdivision (d) of this paragraph in regard to the specific file that will be discussed. This information shall not be further disclosed unless a court has ordered the disclosure of this information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding. To request a file pursuant to this paragraph:
   (a) The legislator shall submit a written request for DCS information to the presiding officer of the body of which the state legislator is a member. The request shall state the name of the person whose case file is to be reviewed and any other information that will assist the department in locating the file.
   (b) The presiding officer shall forward the request to the department within five working days of the receipt of the request.
   (c) The department shall make the necessary arrangements for the legislator to review the file at an office of the department, chosen by the legislator, within ten working days.
   (d) The legislator shall sign a form, consistent with the requirements of this paragraph and paragraph 3 of this subsection, before reviewing the file, that outlines the confidentiality laws governing department files and penalties for further release of the information.
5. A citizen review panel as prescribed by federal law, a child fatality review team as provided in title 36, chapter 35 and the office of ombudsman-citizens aide.
6. A human rights committee established pursuant to section 41-3801.
7. The governor who shall not disclose any information unless a court has ordered the disclosure of the information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding.

J. A person who has been denied DCS information regarding a fatality or near fatality caused by abuse, abandonment or neglect pursuant to subsection L of this section or section 8-807.01 may bring a special action pursuant to section 39-121.02 in the superior court to order the department to release that DCS information. A legislator has standing to bring or to join a special action regarding the release of DCS information or to challenge the redaction of released DCS information. The plaintiff shall provide notice to the county attorney, who has standing and may participate in the action. The court shall review the requested records in camera and order disclosure consistent with subsections A and L of this section and section 8-807.01. The court shall take reasonable steps to prevent any clearly unwarranted invasions of privacy and protect the privacy and dignity of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

K. The department or a person who is not specifically authorized by this section to obtain DCS information may petition a judge of the superior court to order the department to release DCS information. The plaintiff shall provide notice to the
county attorney and to the attorney and guardian ad litem for the child, who have standing and may participate in the action. The court shall review the requested records in camera and shall balance the rights of the parties who are entitled to confidentiality pursuant to this section against the rights of the parties who are seeking the release of the DCS information. The court may release otherwise confidential DCS information only if the rights of the parties seeking the DCS information and any benefits from releasing the DCS information outweigh the rights of the parties who are entitled to confidentiality and any harm that may result from releasing the DCS information. The court shall take reasonable steps to prevent any clearly unwarranted invasions of privacy and protect the privacy and dignity of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

L. Except as provided in subsection M of this section, before it releases records under this section or section 8-807.01, the department shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of a person who reports child abuse or neglect and to protect any other person if the department believes that disclosure of the DCS information would be likely to endanger the life or safety of any person. The department is not required by this section to disclose DCS information if the department demonstrates that disclosure would cause a specific, material harm to a department investigation. The department is not required by this section to disclose DCS information if, in consultation with the county attorney, the county attorney demonstrates that disclosure would cause a specific, material harm to a criminal investigation or prosecution.

M. A person who is the subject of an unfounded report or complaint made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter and who believes that the report or complaint was made in bad faith or with malicious intent may petition a judge of the superior court to order the department to release the DCS information. The petition shall specifically set forth reasons supporting the person's belief that the report or complaint was made in bad faith or with malicious intent. The court shall review the DCS information in camera and the person filing the petition shall be allowed to present evidence in support of the petition. If the court determines that there is a reasonable question of fact as to whether the report or complaint was made in bad faith or with malicious intent and that disclosure of the identity of the person making the report or complaint would not be likely to endanger the life or safety of the person making the report or complaint, it shall provide a copy of the DCS information to the person filing the petition and the original DCS information is subject to discovery in a subsequent civil action regarding the making of the report or complaint.

N. The department shall provide the person who conducts a forensic medical evaluation with any records the person requests, including social history and family history regarding the child, the child's siblings and the child's parents or guardians.

O. The department shall provide DCS information on request to a prospective adoptive parent, foster parent or guardian, if the information concerns a child the prospective adoptive parent, foster parent or guardian seeks to adopt or provide care for.

P. If the department receives information that is confidential by law, the department shall maintain the confidentiality of the information as prescribed in the applicable law.

Q. A person may authorize the release of DCS information about the person but may not waive the confidentiality of DCS information concerning any other person.

R. The department may provide a summary of the outcome of a department investigation to the person who reported the suspected child abuse or neglect.
S. The department shall adopt rules to facilitate the accessibility of DCS information.

T. The department or a person who receives DCS information pursuant to subsection B of this section shall provide DCS information to law enforcement and a court to protect the safety of any employee of the department or the office of the attorney general or to protect a family member of such an employee.

U. A person who receives DCS information shall maintain the confidentiality of the information and shall not further disclose the information unless the disclosure is authorized by law or a court order.

V. The department may charge a fee for copying costs required to prepare DCS information for release pursuant to this section or section 8-807.01.

W. A person who violates this section is guilty of a class 2 misdemeanor.

X. For the purposes of this section, “DCS information” includes all information the department gathers during the course of an investigation conducted under this chapter from the time a file is opened and until it is closed. DCS information does not include information that is contained in child welfare agency licensing records.

§ 12-2238. Mediation; privileged communications; exceptions; liability; definitions.
AZ Stat § 12-2238

A. Before or after the filing of a complaint, mediation may occur pursuant to law, a court order or a voluntary decision of the parties.

B. The mediation process is confidential. Communications made, materials created for or used and acts occurring during a mediation are confidential and may not be discovered or admitted into evidence unless one of the following exceptions is met:
   1. All of the parties to the mediation agree to the disclosure.
   2. The communication, material or act is relevant to a claim or defense made by a party to the mediation against the mediator or the mediation program arising out of a breach of a legal obligation owed by the mediator to the party.
   3. The disclosure is required by statute.
   4. The disclosure is necessary to enforce an agreement to mediate.
   5. The disclosure is made in a report to a law enforcement officer, the department of child safety or adult protective services by a court appointed mediator who reasonably believes that a minor or vulnerable adult is or has been a victim of abuse, child abuse, neglect, exploitation, physical injury or a reportable offense.

C. Except pursuant to subsection B, paragraph 2, 3, 4 OR 5 of this section, a mediator is not subject to service of process or a subpoena to produce evidence or to testify regarding any evidence or occurrence relating to the mediation proceedings. Evidence that exists independently of the mediation even if the evidence is used in connection with the mediation is subject to service of process or subpoena.

D. Notwithstanding subsection B of this section, when necessary to enforce or obtain approval of an agreement that is reached by the parties in a mediation, the terms of an agreement that is evidenced by a record that is signed by the parties are not confidential. The agreement may be introduced in any proceeding to obtain court approval of the agreement, where required by law, or to enforce the agreement. If a party requests that all or a portion of the agreement remain confidential, the agreement may be disclosed to the court under seal with a request to issue
appropriate orders to protect the confidentiality of the agreement, as permitted by law.

E. Notwithstanding subsection B of this section, threatened or actual violence that occurs during a mediation is not a privileged communication. The mediator may inform the parties that threatened or actual violence is not privileged and may be disclosed.

F. A mediator is not subject to civil liability except for those acts or omissions that involve intentional misconduct or reckless disregard of a substantial risk of a significant injury to the rights of others.

G. For the purposes of this section:
   1. “Abuse” has the same meaning prescribed in section 8-201 if the victim is a minor or section 46-451 if the victim is a vulnerable adult.
   2. “Child abuse” means child abuse pursuant to section 13-3623.
   4. “Mediation” means a process in which parties who are involved in a dispute enter into one or more private settlement discussions outside of a formal court proceeding with a neutral third party to try to resolve the dispute.
   5. “Neglect” has the same meaning prescribed in section 8-201 if the victim is a minor or section 46-451 if the victim is a vulnerable adult.
   6. “Physical injury” has the same meaning prescribed in section 13-105.
   7. “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and that is retrievable in a perceivable form.
   8. “Reportable offense” has the same meaning prescribed in section 13-3620.
   9. “Sign” means to execute or adopt a tangible symbol with the present intent to authenticate a record or to attach or logically associate an electronic symbol, sound or process to or with a record with the present intent to authenticate a record.
   10. “Vulnerable adult” has the same meaning prescribed in section 13-3623.
§ 63.2-1508. Valid report or complaint.
VA. Code Ann. § 63.2-1508

A valid report or complaint means the local department has evaluated the information and allegations of the report or complaint and determined that the local department shall conduct an investigation or family assessment because the following elements are present:

1. The alleged victim child or children are under the age of eighteen at the time of the complaint or report;
2. The alleged abuser is the alleged victim child's parent or other caretaker;
3. The local department receiving the complaint or report has jurisdiction; and
4. The circumstances described allege suspected child abuse or neglect.

Nothing in this section shall relieve any person specified in § 63.2-1509 from making a report required by that section, regardless of the identity of the person suspected to have caused such abuse or neglect.

§ 63.2-1509. Requirement that certain injuries to children be reported by physicians, nurses, teachers, etc.; penalty for failure to report.
VA. Code Ann. § 63.2-1509

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts;
2. Any hospital resident or intern, and any person employed in the nursing profession;
3. Any person employed as a social worker or family-services specialist;
4. Any probation officer;
5. Any teacher or other person employed in a public or private school, kindergarten or nursery school;
6. Any person providing full-time or part-time child care for pay on a regularly planned basis;
7. Any mental health professional;
8. Any law-enforcement officer or animal control officer;
9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;
10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;
11. Any person 18 years of age or older associated with or employed by any public or private organization responsible for the care, custody or control of children;
12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
13. Any person 18 years of age or older who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;
14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance;
15. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith;
16. Any athletic coach, director or other person 18 years of age or older employed by or volunteering with a private sports organization or team;
17. Administrators or employees 18 years of age or older of public or private day camps, youth centers and youth recreation programs; and
18. Any person employed by a public or private institution of higher education other than an attorney who is employed by a public or private institution of higher education as it relates to information gained in the course of providing legal representation to a client.

This subsection shall not apply to any regular minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church as it relates to (i) information required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court.

If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the Department in selecting a local department to respond to the report or the complaint.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith. If the initial report of suspected abuse or neglect is made to the person in charge of the institution or department, or his designee, pursuant to this subsection, such person shall notify the teacher, staff member, resident, intern or nurse who made the initial report when the report of suspected child abuse or neglect is made to the local department or to the Department's toll-free child abuse and neglect hotline, and of the name of the individual receiving the report, and shall forward any communication resulting from the report, including any information about any actions taken regarding the report, to the person who made the initial report.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the Board. Any person required to make the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department, which is the agency of jurisdiction, any information, records, or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § 8.01-399. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. For purposes of subsection A, “reason to suspect that a child is abused or neglected” shall include (i) a finding made by a health care provider within six weeks of the birth of a child that the child was born affected by substance abuse
or experiencing withdrawal symptoms resulting from in utero drug exposure; (ii) a diagnosis made by a health care provider within four years following a child’s birth that the child has an illness, disease, or condition that, to a reasonable degree of medical certainty, is attributable to maternal abuse of a controlled substance during pregnancy; or (iii) a diagnosis made by a health care provider within four years following a child’s birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. When “reason to suspect” is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report.

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than $500 for the first failure and for any subsequent failures not less than $1,000. In cases evidencing acts of rape, sodomy, or object sexual penetration as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally fails to make the report required pursuant to this section shall be guilty of a Class 1 misdemeanor.

E. No person shall be required to make a report pursuant to this section if the person has actual knowledge that the same matter has already been reported to the local department or the Department's toll-free child abuse and neglect hotline.

§ 63.2-1510. Complaints by others of certain injuries to children.
VA. Code Ann. § 63.2-1510

Any person who suspects that a child is an abused or neglected child may make a complaint concerning such child, except as hereinafter provided, to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline. If an employee of the local department is suspected of abusing or neglecting a child, the complaint shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment; or, if the judge believes that no local department in a reasonable geographic distance can be impartial in responding to the reported case, the judge shall assign the report to the court service unit of his court for evaluation. The judge may consult with the Department in selecting a local department to respond to the report or complaint. Such a complaint may be oral or in writing and shall disclose all information which is the basis for the suspicion of abuse or neglect of the child.

§ 63.2-1511. Complaints of abuse and neglect against school personnel; interagency agreement.
VA. Code Ann. § 63.2-1511

A. If a teacher, principal or other person employed by a local school board or employed in a school operated by the Commonwealth is suspected of abusing or neglecting a child in the course of his educational employment, the complaint shall be investigated in accordance with §§ 63.2-1503, 63.2-1505 and 63.2-1516.1. Pursuant to § 22.1-279.1, no teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth shall subject a student to
corporal punishment. However, this prohibition of corporal punishment shall not
be deemed to prevent (i) the use of incidental, minor or reasonable physical contact
or other actions designed to maintain order and control; (ii) the use of reasonable
and necessary force to quell a disturbance or remove a student from the scene of a
disturbance that threatens physical injury to persons or damage to property; (iii) the
use of reasonable and necessary force to prevent a student from inflicting physical
harm on himself; (iv) the use of reasonable and necessary force for self-defense or
the defense of others; or (v) the use of reasonable and necessary force to obtain
possession of weapons or other dangerous objects or controlled substances or
paraphernalia that are upon the person of the student or within his control. In
determining whether the actions of a teacher, principal or other person employed by
a school board or employed in a school operated by the Commonwealth are within
the exceptions provided in this section, the local department shall examine whether
the actions at the time of the event that were made by such person were reasonable.

B. For purposes of this section, “corporal punishment,” “abuse,” or “neglect” shall not
include physical pain, injury or discomfort caused by the use of incidental, minor or
reasonable physical contact or other actions designed to maintain order and control
as permitted in clause (i) of subsection A or the use of reasonable and necessary
force as permitted by clauses (ii), (iii), (iv), and (v) of subsection A, or by participation
in practice or competition in an interscholastic sport, or participation in physical
education or an extracurricular activity.

C. If, after an investigation of a complaint under this section, the local department
determines that the actions or omissions of a teacher, principal, or other person
employed by a local school board or employed in a school operated by the
Commonwealth were within such employee’s scope of employment and were taken
in good faith in the course of supervision, care, or discipline of students, then the
standard in determining if a report of abuse or neglect is founded is whether such
acts or omissions constituted gross negligence or willful misconduct.

D. Each local department and local school division shall adopt a written interagency
agreement as a protocol for investigating child abuse and neglect reports. The
interagency agreement shall be based on recommended procedures for conducting
investigations developed by the Departments of Education and Social Services.

§ 63.2-1512. Immunity of person making report, etc., from liability.
VA. Code Ann. § 63.2-1512

Any person making a report pursuant to § 63.2-1509, a complaint pursuant to
§ 63.2-1510, or who takes a child into custody pursuant to § 63.2-1517, or who
participates in a judicial proceeding resulting therefrom shall be immune from any
civil or criminal liability in connection therewith, unless it is proven that such person
acted in bad faith or with malicious intent.

§ 63.2-1513. Knowingly making false reports; penalties.
VA. Code Ann. § 63.2-1513

A. Any person fourteen years of age or older who makes or causes to be made a
report of child abuse or neglect pursuant to this chapter that he knows to be false
shall be guilty of a Class 1 misdemeanor. Any person fourteen years of age or older
who has been previously convicted under this subsection and who is subsequently
convicted under this subsection shall be guilty of a Class 6 felony.

B. The child-protective services records regarding the person who was alleged to
have committed abuse or neglect that result from a report for which a conviction
is obtained under this section shall be purged immediately by any custodian
of such records upon presentation to the custodian of a certified copy of such
§ 63.2-1514. Retention of records in all reports; procedures regarding unfounded reports alleged to be made in bad faith or with malicious intent.

VA. Code Ann. § 63.2-1514

A. The local department shall retain the records of all reports or complaints made pursuant to this chapter, in accordance with regulations adopted by the Board. However, all records related to founded cases of child sexual abuse involving injuries or conditions, real or threatened, that result in or were likely to have resulted in serious harm to a child shall be maintained by the local department for a period of 25 years from the date of the complaint.

B. The Department shall maintain a child abuse and neglect information system that includes a central registry of founded complaints, pursuant to § 63.2-1515. The Department shall maintain all (i) unfounded investigations, (ii) family assessments, and (iii) reports or complaints determined to be not valid in a record which is separate from the central registry and accessible only to the Department and to local departments for child-protective services. The purpose of retaining these complaints or reports is to provide local departments with information regarding prior complaints or reports. In no event shall the mere existence of a prior complaint or report be used to determine that a subsequent complaint or report is founded. The subject of the complaint or report is the person who is alleged to have committed abuse or neglect. The subject of the complaint or report shall have access to his own record. The record of unfounded investigations and complaints and reports determined to be not valid shall be purged one year after the date of the complaint or report if there are no subsequent complaints or reports regarding the same child or the person who is the subject of the complaint or report in that one year. The local department shall retain such records for an additional period of up to two years if requested in writing by the person who is the subject of such complaint or report. The record of family assessments shall be purged three years after the date of the complaint or report if there are no subsequent complaints or reports regarding the same child or the person who is the subject of the report in that three-year period. The child-protective services records regarding the petitioner which result from such complaint or report shall be purged immediately by any custodian of such records upon presentation to the custodian of a certified copy of a court order that there has been a civil action that determined that the complaint or report was made in bad faith or with malicious intent. After purging the records, the custodian shall notify the petitioner in writing that the records have been purged.

C. At the time the local department notifies a person who is the subject of a complaint or report made pursuant to this chapter that such complaint or report is either an unfounded investigation or a completed family assessment, it shall notify him how long the record will be retained and of the availability of the procedures set out in this section regarding reports or complaints alleged to be made in bad faith or with malicious intent. Upon request, the local department shall advise the person who was the subject of an unfounded investigation if the complaint or report was made anonymously. However, the identity of a complainant or reporter shall not be disclosed.

D. Any person who is the subject of an unfounded report or complaint made pursuant to this chapter who believes that such report or complaint was made in bad faith or with malicious intent may petition the circuit court in the jurisdiction in which the report or complaint was made for the release to such person of the records of the investigation or family assessment. Such petition shall specifically set forth the reasons such person believes that such report or complaint was made in
bad faith or with malicious intent. Upon the filing of such petition, the circuit court shall request and the local department shall provide to the circuit court its records of the investigation or family assessment for the circuit court's in camera review. The petitioner shall be entitled to present evidence to support his petition. If the circuit court determines that there is a reasonable question of fact as to whether the report or complaint was made in bad faith or with malicious intent and that disclosure of the identity of the complainant would not be likely to endanger the life or safety of the complainant, it shall provide to the petitioner a copy of the records of the investigation or family assessment. The original records shall be subject to discovery in any subsequent civil action regarding the making of a complaint or report in bad faith or with malicious intent.

§ 63.2-1517. Authority to take child into custody.
VA. Code Ann. § 63.2-1517

A. A physician or child-protective services worker of a local department or law-enforcement official investigating a report or complaint of abuse and neglect may take a child into custody for up to 72 hours without prior approval of parents or guardians provided:

1. The circumstances of the child are such that continuing in his place of residence or in the care or custody of the parent, guardian, custodian or other person responsible for the child's care, presents an imminent danger to the child's life or health to the extent that severe or irremediable injury would be likely to result or if evidence of abuse is perishable or subject to deterioration before a hearing can be held;
2. A court order is not immediately obtainable;
3. The court has set up procedures for placing such children;
4. Following taking the child into custody, the parents or guardians are notified as soon as practicable. Every effort shall be made to provide such notice in person;
5. A report is made to the local department; and
6. The court is notified and the person or agency taking custody of such child obtains, as soon as possible, but in no event later than 72 hours, an emergency removal order pursuant to § 16.1-251; however, if a preliminary removal order is issued after a hearing held in accordance with § 16.1-252 within 72 hours of the removal of the child, an emergency removal order shall not be necessary. Any person or agency petitioning for an emergency removal order after four hours have elapsed following taking custody of the child shall state the reasons therefor pursuant to § 16.1-251.

B. If the 72-hour period for holding a child in custody and for obtaining a preliminary or emergency removal order expires on a Saturday, Sunday, or legal holiday or day on which the court is lawfully closed, the 72 hours shall be extended to the next day that is not a Saturday, Sunday, or legal holiday or day on which the court is lawfully closed.

§ 63.2-1519. Physician-patient and husband-wife privileges inapplicable.
VA. Code Ann. § 63.2-1519

In any legal proceeding resulting from the filing of any report or complaint pursuant to this chapter, the physician-patient and husband-wife privileges shall not apply.

§ 63.2-1520. Photographs and X-rays of child; use as evidence.
VA. Code Ann. § 63.2-1508

In any case of suspected child abuse, photographs and X-rays of the child may be taken without the consent of the parent or other person responsible for such child
as a part of the medical evaluation. Photographs of the child may also be taken without the consent of the parent or other person responsible for such child as a part of the investigation or family assessment of the case by the local department or the court; however, such photographs shall not be used in lieu of medical evaluation. Such photographs and X-rays may be introduced into evidence in any subsequent proceeding.

The court receiving such evidence may impose such restrictions as to the confidentiality of photographs of any minor as it deems appropriate.

§ 63.2-1731. Retaliation against reports of child or adult abuse or neglect.
VA. Code Ann. § 63.2-1731

No assisted living facility, adult day care center or child welfare agency may retaliate in any manner against any person who in good faith reports adult or child abuse or neglect pursuant to Chapter 15 (§ 63.2-1500 et seq.) of this title or Article 2 (§ 63.2-1603 et seq.) of Chapter 16 of this title.

§ 22.1-291.3. Notice of duty to report child abuse or neglect.
VA. Code Ann. § 22.1-291.3

Each public school board and each administrator of every private or parochial school shall post, in each of their schools, a notice, pursuant to § 63.2-1509, that: (i) any teacher or other person employed in a public or private school who has reason to suspect that a child is an abused or neglected child, including any child who may be abandoned, is required to report such suspected cases of child abuse or neglect to local or state social services agencies or the person in charge of the relevant school or his designee; and (ii) all persons required to report cases of suspected child abuse or neglect are immune from civil or criminal liability or administrative penalty or sanction on account of such reports unless such person has acted in bad faith or with malicious purpose. The notice shall also include the Virginia Department of Social Services' toll-free child abuse and neglect hotline.

Wash. Rev. Code Ann. § 26.44.030

(1)

(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, state family and children's ombuds or any volunteer in the ombuds's office, or host home program has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060. Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) “Official supervisory capacity” means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) “Organization” includes a sole proprietor, partnership, corporation, limited liability company, trust, association, financial institution, governmental entity, other than the federal government, and any other individual or group engaged in a trade, occupation, enterprise, governmental function, charitable function, or similar activity in this state whether or not the entity is operated as a nonprofit or for-profit entity.

(iii) “Reasonable cause” means a person witnesses or receives a credible written or oral report alleging abuse, including sexual contact, or neglect of a child.

(iv) “Regularly exercises supervisory authority” means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(v) “Sexual contact” has the same meaning as in RCW 9A.44.010.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment,
any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11 and 13 RCW and this title, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency, including military law enforcement, if appropriate. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law
enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:
   (a) The department believes there is a serious threat of substantial harm to the child;
   (b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or
   (c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11) (a) Upon receiving a report of alleged abuse or neglect, the department shall use one of the following discrete responses to reports of child abuse or neglect that are screened in and accepted for departmental response:
   (i) Investigation; or
   (ii) Family assessment.
   (b) In making the response in (a) of this subsection the department shall:
      (i) Use a method by which to assign cases to investigation or family assessment which are based on an array of factors that may
include the presence of: Imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics, such as the type of alleged maltreatment and the age of the alleged victim. Age of the alleged victim shall not be used as the sole criterion for determining case assignment;  
(ii) Allow for a change in response assignment based on new information that alters risk or safety level;  
(iii) Allow families assigned to family assessment to choose to receive an investigation rather than a family assessment;  
(iv) Provide a full investigation if a family refuses the initial family assessment;  
(v) Provide voluntary services to families based on the results of the initial family assessment. If a family refuses voluntary services, and the department cannot identify specific facts related to risk or safety that warrant assignment to investigation under this chapter, and there is not a history of reports of child abuse or neglect related to the family, then the department must close the family assessment response case. However, if at any time the department identifies risk or safety factors that warrant an investigation under this chapter, then the family assessment response case must be reassigned to investigation;  
(vi) Conduct an investigation, and not a family assessment, in response to an allegation that, the department determines based on the intake assessment:  
(A) Poses a risk of "imminent harm" consistent with the definition provided in RCW 13.34.050, which includes, but is not limited to, sexual abuse and sexual exploitation as defined in this chapter;  
(B) Poses a serious threat of substantial harm to a child;  
(C) Constitutes conduct involving a criminal offense that has, or is about to occur, in which the child is the victim;  
(D) The child is an abandoned child as defined in RCW 13.34.030;  
(E) The child is an adjudicated dependent child as defined in RCW 13.34.030, or the child is in a facility that is licensed, operated, or certified for care of children by the department under chapter 74.15 RCW, or by the department of early learning.  
(c) The department may not be held civilly liable for the decision to respond to an allegation of child abuse or neglect by using the family assessment response under this section unless the state or its officers, agents, or employees acted with reckless disregard.  

(12)  
(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.  
(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.
(13) For reports of alleged abuse or neglect that are responded to through family assessment response, the department shall:
   (a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;
   (b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;
   (c) Complete the family assessment response within forty-five days of receiving the report; however, upon parental agreement, the family assessment response period may be extended up to ninety days;
   (d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;
   (e) Implement the family assessment response in a consistent and cooperative manner;
   (f) Have the parent or guardian agree to participate in services before services are initiated. The department shall inform the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not agree to participate in services.

(14)
   (a) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:
      (i) May interview children. If the department determines that the response to the allegation will be family assessment response, the preferred practice is to request a parent’s, guardian’s, or custodian’s permission to interview the child before conducting the child interview unless doing so would compromise the safety of the child or the integrity of the assessment. The interviews may be conducted on school premises, at day-care facilities, at the child’s home, or at other suitable locations outside of the presence of parents. If the allegation is investigated, parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child’s wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and
      (ii) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.
   (b) The Washington state school directors’ association shall adopt a model policy addressing protocols when an interview, as authorized by this subsection, is conducted on school premises. In formulating its policy, the association shall consult with the department and the Washington association of sheriffs and police chiefs.

(15) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children’s ombuds of the contents of the report. The department shall also notify the ombuds of the disposition of the report.

(16) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.
(17) (a) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases. 
(b) In the family assessment response, the department shall not make a finding as to whether child abuse or neglect occurred. No one shall be named as a perpetrator and no investigative finding shall be entered in the department's child abuse or neglect database.

(18) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor.

(19) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(20) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, “guardian ad litem” has the meaning provided in RCW 13.34.030.

(21) The department shall make efforts as soon as practicable to determine the military status of parents whose children are subject to abuse or neglect allegations. If the department determines that a parent or guardian is in the military, the department shall notify a department of defense family advocacy program that there is an allegation of abuse and neglect that is screened in and open for investigation that relates to that military parent or guardian.

(22) The department shall make available on its public web site a downloadable and printable poster that includes the reporting requirements included in this section. The poster must be no smaller than eight and one-half by eleven inches with all information on one side. The poster must be made available in both the English and Spanish languages. Organizations that include employees or volunteers subject to the reporting requirements of this section must clearly display this poster in a common area. At a minimum, this poster must include the following:
(a) Who is required to report child abuse and neglect;
(b) The standard of knowledge to justify a report;
(c) The definition of reportable crimes;
(d) Where to report suspected child abuse and neglect; and
(e) What should be included in a report and the appropriate timing.

§ 26.44.032. Legal defense of public employee. 
Wash. Rev. Code Ann. § 26.44.032

In cases in which a public employee subject to RCW 26.44.030 acts in good faith and without gross negligence in his or her reporting duty, and if the employee's judgment as to what constitutes reasonable cause to believe that a child has suffered abuse or neglect is being challenged, the public employer shall provide for the legal defense of the employee.

§ 26.44.040. Reports - Oral, written – Contents. 
Wash. Rev. Code Ann. § 26.44.040

An immediate oral report must be made by telephone or otherwise to the proper
law enforcement agency or the department of social and health services and, upon request, must be followed by a report in writing. Such reports must contain the following information, if known:

(1) The name, address, and age of the child;

(2) The name and address of the child's parents, stepparents, guardians, or other persons having custody of the child;

(3) The nature and extent of the alleged injury or injuries;

(4) The nature and extent of the alleged neglect;

(5) The nature and extent of the alleged sexual abuse;

(6) Any evidence of previous injuries, including their nature and extent; and

(7) Any other information that may be helpful in establishing the cause of the child’s death, injury, or injuries and the identity of the alleged perpetrator or perpetrators.

§ 26.44.050. Abuse or neglect of child-Duty of law enforcement agency or department of social and health services-Taking child into custody without court order, when.

Wash. Rev. Code Ann. § 26.44.050

Except as provided in RCW 26.44.030(11), upon the receipt of a report concerning the possible occurrence of abuse or neglect, the law enforcement agency or the department of social and health services must investigate and provide the protective services section with a report in accordance with chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child.


Wash. Rev. Code Ann. § 26.44.056

(1) An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if the circumstances or conditions of the child are such that the detaining individual has reasonable cause to believe that permitting the child to continue in his or her place of residence or in the care and custody of the parent, guardian, custodian or other person legally responsible for the child's care would present an imminent danger to that child’s safety: PROVIDED, That such administrator or physician shall notify or cause to be notified the appropriate law enforcement agency or child protective services pursuant to RCW 26.44.040. Such notification shall be made as soon as possible and in no case longer than seventy-two hours. Such temporary protective custody by an administrator or doctor shall not be deemed an arrest. Child protective services may detain the child until the court assumes custody, but in no case longer than seventy-two hours, excluding Saturdays, Sundays, and holidays.
(2) Whenever an administrator or physician has reasonable cause to believe that a child would be in imminent danger if released to a parent, guardian, custodian, or other person or is in imminent danger if left in the custody of a parent, guardian, custodian, or other person, the administrator or physician may notify a law enforcement agency and the law enforcement agency shall take the child into custody or cause the child to be taken into custody. The law enforcement agency shall release the child to the custody of child protective services. Child protective services shall detain the child until the court assumes custody or upon a documented and substantiated record that in the professional judgment of the child protective services the child's safety will not be endangered if the child is returned. If the child is returned, the department shall establish a six-month plan to monitor and assure the continued safety of the child's life or health. The monitoring period may be extended for good cause.

(3) A child protective services employee, an administrator, doctor, or law enforcement officer shall not be held liable in any civil action for the decision for taking the child into custody, if done in good faith under this section.

§ 26.44.060. Immunity from civil or criminal liability - Confidential communications not violated - Actions against state not affected - False report, penalty.
Wash. Rev. Code Ann. § 26.44.060

(1)

(a) Except as provided in (b) of this subsection, any person participating in good faith in the making of a report pursuant to this chapter or testifying as to alleged child abuse or neglect in a judicial proceeding shall in so doing be immune from any liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(b) A person convicted of a violation of subsection (4) of this section shall not be immune from liability under (a) of this subsection.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a child into custody pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

(4) A person who, intentionally and in bad faith, knowingly makes a false report of alleged abuse or neglect shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

(5) A person who, in good faith and without gross negligence, cooperates in an investigation arising as a result of a report made pursuant to this chapter, shall not be subject to civil liability arising out of his or her cooperation. This subsection does not apply to a person who caused or allowed the child abuse or neglect to occur.

§ 26.44.061. False reporting - Statement warning against - Determination letter and referral.
Wash. Rev. Code Ann. § 26.44.061

(1) The child protective services section shall prepare a statement warning against
false reporting of alleged child abuse or neglect for inclusion in any instructions, informational brochures, educational forms, and handbooks developed or prepared for or by the department and relating to the reporting of abuse or neglect of children. Such statement shall include information on the criminal penalties that apply to false reports of alleged child abuse or neglect under RCW 26.44.060(4). It shall not be necessary to reprint existing materials if any other less expensive technique can be used. Materials shall be revised when reproduced.

(2) The child protective services section shall send a letter by certified mail to any person determined by the section to have made a false report of child abuse or neglect informing the person that such a determination has been made and that a second or subsequent false report will be referred to the proper law enforcement agency for investigation.

§ 26.44.080. Violation – Penalty.
Wash. Rev. Code Ann. § 26.44.080

Every person who is required to make, or to cause to be made, a report pursuant to RCW 26.44.030 and 26.44.040, and who knowingly fails to make, or fails to cause to be made, such report, shall be guilty of a gross misdemeanor.

§ 9.68A.080. Reporting of depictions of minor engaged in sexually explicit conduct-Civil immunity.

(1) 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 proper law enforcement agency. Persons failing to do so are guilty of a gross misdemeanor.

(2) If, in the course of repairing, modifying, or maintaining a computer that has been submitted either privately or commercially for repair, modification, or maintenance, a person has reasonable cause to believe that the computer stores visual or printed matter that depicts a minor engaged in sexually explicit conduct, the person performing the repair, modification, or maintenance may report such incident, or cause a report to be made, to the proper law enforcement agency.

(3) A person who makes a report in good faith under this section is immune from civil liability resulting from the report.

§ 9A.72.110. Intimidating a witness.
Wash. Rev. Code Ann. § 9A.72.110

(1) A person is guilty of intimidating a witness if a person, by use of a threat against a current or prospective witness, attempts to:
   (a) Influence the testimony of that person;
   (b) Induce that person to elude legal process summoning him or her to testify;
   (c) Induce that person to absent himself or herself from such proceedings; or
   (d) Induce that person not to report the information relevant to a criminal investigation or the abuse or neglect of a minor child, not to have the crime or the abuse or neglect of a minor child prosecuted, or not to give truthful or complete information relevant to a criminal investigation or the abuse or neglect of a minor child.
(2) A person also is guilty of intimidating a witness if the person directs a threat to a former witness because of the witness's role in an official proceeding.

(3) As used in this section:
   (a) “Threat” means:
       (i) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or
       (ii) Threat as defined in *RCW 9A.04.110(27).
   (b) “Current or prospective witness” means:
       (i) A person endorsed as a witness in an official proceeding;
       (ii) A person whom the actor believes may be called as a witness in any official proceeding; or
       (iii) A person whom the actor has reason to believe may have information relevant to a criminal investigation or the abuse or neglect of a minor child.
   (c) “Former witness” means:
       (i) A person who testified in an official proceeding;
       (ii) A person who was endorsed as a witness in an official proceeding;
       (iii) A person whom the actor knew or believed may have been called as a witness if a hearing or trial had been held; or
       (iv) A person whom the actor knew or believed may have provided information related to a criminal investigation or an investigation into the abuse or neglect of a minor child.

(4) Intimidating a witness is a class B felony.

(5) For purposes of this section, each instance of an attempt to intimidate a witness constitutes a separate offense.


(1) All employees of institutions of higher education, not considered academic or athletic department employees, who have reasonable cause to believe a child has suffered abuse or neglect, must report such abuse or neglect immediately to the appropriate administrator or supervisor, as designated by the institution. The administrator or supervisor to whom the report was made, if not already a mandatory reporter under RCW 26.44.030, must report the abuse or neglect within forty-eight hours to a mandatory reporter designated by the institution for this purpose.

(b) For purposes of this section, “child” has the same meaning as in RCW 26.44.020(2).

(c) For purposes of this section, “abuse or neglect” has the same meaning as in RCW 26.44.020(1).

(2) Institutions of higher education must ensure that the employees covered by the provisions of RCW 26.44.030 and subsection (1)(a) of this section have knowledge of their reporting responsibilities through whatever means are most likely to succeed in providing this information to affected employees.

§ 5.60.060. Who is disqualified - Privileged communications.
Wash. Rev. Code Ann. § 5.60.060

(1) A spouse or domestic partner shall not be examined for or against his or her
spouse or domestic partner, without the consent of the spouse or domestic partner; nor can either during marriage or during the domestic partnership or afterward, be without the consent of the other, examined as to any communication made by one to the other during the marriage or the domestic partnership. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse or domestic partner if the marriage or the domestic partnership occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said spouse or domestic partner against any child of whom said spouse or domestic partner is the parent or guardian, nor to a proceeding under chapter 71.05 or 71.09 RCW: PROVIDED, That the spouse or the domestic partner of a person sought to be detained under chapter 71.05 or 71.09 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2)  
(a) An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her advice given thereon in the course of professional employment.  
(b) A parent or guardian of a minor child arrested on a criminal charge may not be examined as to a communication between the child and his or her attorney if the communication was made in the presence of the parent or guardian. This privilege does not extend to communications made prior to the arrest.

(3) A member of the clergy, a Christian Science practitioner listed in the Christian Science Journal, or a priest shall not, without the consent of a person making the confession or sacred confidence, be examined as to any confession or sacred confidence made to him or her in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs.

(4) Subject to the limitations under RCW 71.05.360 (8) and (9), a physician or surgeon or osteopathic physician or surgeon or podiatric physician or surgeon shall not, without the consent of his or her patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him or her to prescribe or act for the patient, except as follows:  
(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and  
(b) Ninety days after filing an action for personal injuries or wrongful death, the claimant shall be deemed to waive the physician-patient privilege. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him or her in official confidence, when the public interest would suffer by the disclosure.

(6)  
(a) A peer support group counselor shall not, without consent of the law enforcement officer or firefighter making the communication, be compelled to testify about any communication made to the counselor by the officer or firefighter while receiving counseling. The counselor must be designated as such by the sheriff, police chief, fire chief, or chief of the Washington state patrol, prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding officer or firefighter, a witness, or a party to the incident which prompted the delivery of peer
support group counseling services to the law enforcement officer or firefighter. (b) For purposes of this section, “peer support group counselor” means a:
   (i) Law enforcement officer, firefighter, civilian employee of a law enforcement agency, or civilian employee of a fire department, who has received training to provide emotional and moral support and counseling to an officer or firefighter who needs those services as a result of an incident in which the officer or firefighter was involved while acting in his or her official capacity; or
   (ii) Nonemployee counselor who has been designated by the sheriff, police chief, fire chief, or chief of the Washington state patrol to provide emotional and moral support and counseling to an officer or firefighter who needs those services as a result of an incident in which the officer or firefighter was involved while acting in his or her official capacity.

(7) A sexual assault advocate may not, without the consent of the victim, be examined as to any communication made between the victim and the sexual assault advocate. (a) For purposes of this section, “sexual assault advocate” means the employee or volunteer from a community sexual assault program or underserved populations provider, victim assistance unit, program, or association, that provides information, medical or legal advocacy, counseling, or support to victims of sexual assault, who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings concerning the alleged assault, including police and prosecution interviews and court proceedings.

(b) A sexual assault advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any sexual assault advocate participating in good faith in the disclosing of records and communications under this section shall have immunity from any liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this section, the good faith of the sexual assault advocate who disclosed the confidential communication shall be presumed.

(8) A domestic violence advocate may not, without the consent of the victim, be examined as to any communication between the victim and the domestic violence advocate. (a) For purposes of this section, “domestic violence advocate” means an employee or supervised volunteer from a community-based domestic violence program or human services program that provides information, advocacy, counseling, crisis intervention, emergency shelter, or support to victims of domestic violence and who is not employed by, or under the direct supervision of, a law enforcement agency, a prosecutor’s office, or the child protective services section of the department of social and health services as defined in RCW 26.44.020.

(b) A domestic violence advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. This section does not relieve a domestic violence advocate from the requirement to report or cause to be reported an incident under RCW 26.44.030(1) or to disclose relevant records relating to a child as required by RCW 26.44.030(14). Any domestic violence advocate participating in good faith in the disclosing of communications under this subsection is immune from liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this subsection, the good faith of the domestic violence advocate who disclosed the confidential communication shall be presumed.

(9) A mental health counselor, independent clinical social worker, or marriage and family therapist licensed under chapter 18.225 RCW may not disclose, or be
compelled to testify about, any information acquired from persons consulting the individual in a professional capacity when the information was necessary to enable the individual to render professional services to those persons except:

(a) With the written authorization of that person or, in the case of death or disability, the person's personal representative;
(b) If the person waives the privilege by bringing charges against the mental health counselor licensed under chapter 18.225 RCW;
(c) In response to a subpoena from the secretary of health. The secretary may subpoena only records related to a complaint or report under RCW 18.130.050;
(d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.360 (8) and (9); or
(e) To any individual if the mental health counselor, independent clinical social worker, or marriage and family therapist licensed under chapter 18.225 RCW reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the individual or any other individual; however, there is no obligation on the part of the provider to so disclose.

(10) An individual who acts as a sponsor providing guidance, emotional support, and counseling in an individualized manner to a person participating in an alcohol or drug addiction recovery fellowship may not testify in any civil action or proceeding about any communication made by the person participating in the addiction recovery fellowship to the individual who acts as a sponsor except with the written authorization of that person or, in the case of death or disability, the person's personal representative.

§ 9.69.100. Duty of witness of offense against child or any violent offense - Penalty.
Wash. Rev. Code Ann. § 9.69.100

(1) A person who witnesses the actual commission of:
(a) A violent offense as defined in RCW 9.94A.030 or preparations for the commission of such an offense;
(b) A sexual offense against a child or an attempt to commit such a sexual offense; or
(c) An assault of a child that appears reasonably likely to cause substantial bodily harm to the child,
shall as soon as reasonably possible notify the prosecuting attorney, law enforcement, medical assistance, or other public officials.

(2) This section shall not be construed to affect privileged relationships as provided by law.

(3) The duty to notify a person or agency under this section is met if a person notifies or attempts to provide such notice by telephone or any other means as soon as reasonably possible.

(4) Failure to report as required by subsection (1) of this section is a gross misdemeanor. However, a person is not required to report under this section where that person has a reasonable belief that making such a report would place that person or another family or household member in danger of immediate physical harm.
§ 49-2-803. Persons mandated to report suspected abuse and neglect; requirements.


(a) Any medical, dental or mental health professional, Christian Science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-enforcement official, humane officer, member of the clergy, circuit court judge, family court judge, employee of the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee, coach or volunteer of an entity that provides organized activities for children, or commercial film or photographic print processor who has reasonable cause to suspect that a child is neglected or abused or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than forty-eight hours after suspecting this abuse or neglect, report the circumstances or cause a report to be made to the Department of Health and Human Resources. In any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report, or cause a report to be made, to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint. Any person required to report under this article who is a member of the staff or volunteer of a public or private institution, school, entity that provides organized activities for children, facility or agency shall also immediately notify the person in charge of the institution, school, entity that provides organized activities for children, facility or agency, or a designated agent thereof, who may supplement the report or cause an additional report to be made.

(b) Any person over the age of eighteen who receives a disclosure from a credible witness or observes any sexual abuse or sexual assault of a child, shall immediately, and not more than forty-eight hours after receiving that disclosure or observing the sexual abuse or sexual assault, report the circumstances or cause a report to be made to the Department of Health and Human Resources or the State Police or other law-enforcement agency having jurisdiction to investigate the report. In the event that the individual receiving the disclosure or observing the sexual abuse or sexual assault has a good faith belief that the reporting of the event to the police would expose either the reporter, the subject child, the reporter's children or other children in the subject child's household to an increased threat of serious bodily injury, the individual may delay making the report while he or she undertakes measures to remove themselves or the affected children from the perceived threat of additional harm and the individual makes the report as soon as practicable after the threat of harm has been reduced. The law-enforcement agency that receives a report under this subsection shall report the allegations to the Department of Health and Human Resources and coordinate with any other law-enforcement agency, as necessary to investigate the report.

(c) Any school teacher or other school personnel who receives a disclosure from a witness, which a reasonable prudent person would deem credible, or personally observes any sexual contact, sexual intercourse or sexual intrusion, as those terms are defined in article eight-b, chapter sixty-one, of a child on school premises or on school buses or on transportation used in furtherance of a school purpose shall immediately, but not more than 24 hours, report the circumstances or cause a report to be made to the State Police or other law-enforcement agency having jurisdiction to investigate the report: Provided, That this subsection will not impose any reporting duty upon school teachers or other school personnel who observe, or receive a disclosure of any consensual sexual contact, intercourse, or intrusion occurring between students who would not otherwise be subject to section three, five, seven or nine of article eight-b, chapter sixty-one of this code: Provided, however, That any teacher or other school personnel shall not be in violation of this section if he or she makes known immediately, but not more than 24 hours, to the principal, assistant...
principal or similar person in charge, a disclosure from a witness, which a reasonable prudent person would deem credible, or personal observation of conduct described in this section: Provided further, That a principal, assistant principal or similar person in charge made aware of such disclosure or observation from a teacher or other school personnel shall be responsible for immediately, but not more than 24 hours, reporting such conduct to law enforcement.

(d) County boards of education and private school administrators shall provide all employees with a written statement setting forth the requirement contained in this subsection and shall obtain and preserve a signed acknowledgment from school employees that they have received and understand the reporting requirement.

(e) The reporting requirements contained in this section specifically include reported, disclosed or observed conduct involving or between students enrolled in a public or private institution of education, or involving a student and school teacher or personnel. When the alleged conduct is between two students or between a student and school teacher or personnel, the law enforcement body that received the report under this section is required to make such a report under this section shall additionally immediately, but not more than 24 hours, notify the students' parents, guardians, and custodians about the allegations.

(f) Nothing in this article is intended to prevent individuals from reporting suspected abuse or neglect on their own behalf. In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of children, any other person may make a report if that person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.

§ 49-2-804. Notification of disposition of reports.

The Department of Health and Human Resources shall continue to develop, update and implement a procedure to notify any person mandated to report suspected child abuse and neglect pursuant to section eight hundred three of this article, of whether an investigation into the reported suspected abuse or neglect has been initiated and when the investigation is completed.

§ 49-2-805. Educational programs; requirements.

Subject to appropriation in the budget, the department shall conduct educational and training programs for persons required to report suspected abuse or neglect, and the general public, as well as implement evidence-based programs that reduce incidents of child maltreatment including sexual abuse. Training for persons required to report and the general public shall include:

(1) Indicators of child abuse and neglect;

(2) Tactics used by sexual abusers;

(3) How and when to make a report; and

(4) Protective factors that prevent abuse and neglect in order to promote adult responsibility for protecting children, encourage maximum reporting of child abuse and neglect, and to improve communication, cooperation and coordination among all agencies involved in the identification, prevention and treatment of the abuse and neglect of children.
§ 49-2-807. Mandatory reporting to medical examiner or coroner; postmortem investigation.

Any person or official who is required pursuant to section eight hundred three of this article to report cases of suspected child abuse or neglect and who has reasonable cause to suspect that a child has died as a result of child abuse or neglect, shall report that fact to the appropriate medical examiner or coroner. Upon the receipt of that report, the medical examiner or coroner shall cause an investigation to be made and report his or her findings to the police, the appropriate prosecuting attorney, the local child protective service agency and, if the institution making a report is a hospital, to the hospital.

§ 49-2-808. Photographs and X rays.
W. Va. Code Ann. § 49-2-808

Any person required to report cases of children suspected of being abused and neglected may take or cause to be taken, at public expense, photographs of the areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child. Any photographs or X rays taken shall be sent to the appropriate child protective service as soon as possible.

§ 49-2-809. Reporting procedures.

(a) Reports of child abuse and neglect pursuant to this article shall be made immediately by telephone to the local department child protective service agency and shall be followed by a written report within forty-eight hours if so requested by the receiving agency. The state department shall establish and maintain a twenty-four hour, seven-day-a-week telephone number to receive those calls reporting suspected or known child abuse or neglect.

(b) A copy of any report of serious physical abuse, sexual abuse or assault shall be forwarded by the department to the appropriate law-enforcement agency, the prosecuting attorney or the coroner or medical examiner’s office. All reports under this article are confidential. Reports of known or suspected institutional child abuse or neglect shall be made and received as all other reports made pursuant to this article.

§ 49-2-810. Immunity from liability.
W. Va. Code Ann. § 49-2-810

Any person, official or institution participating in good faith in any act permitted or required by this article are immune from any civil or criminal liability that otherwise might result by reason of those actions.

§ 49-2-811. Abrogation of privileged communications; exception.

The privileged quality of communications between husband and wife and between any professional person and his or her patient or his or her client, except that between attorney and client, is hereby abrogated in situations involving suspected or known child abuse or neglect.
§ 49-2-812. Failure to report; penalty.

(a) Any person, official or institution required by this article to report a case involving a child known or suspected to be abused or neglected, or required by section eight hundred nine of this article to forward a copy of a report of serious injury, who knowingly fails to do so or knowingly prevents another person acting reasonably from doing so, is guilty of a misdemeanor and, upon conviction, shall be confined in jail not more than ninety days or fined not more than $5,000, or both fined and confined.

(b) Any person, official or institution required by this article to report a case involving a child known or suspected to be sexually assaulted or sexually abused, or student known or suspected to have been a victim of any non-consensual sexual contact, sexual intercourse or sexual intrusion on school premises, who knowingly fails to do so or knowingly prevents another person acting reasonably from doing so, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more than six months or fined not more than $10,000, or both.

§ 49-4-601. Petition to court when child believed neglected or abused; venue; notice; right to counsel; continuing legal education; findings; proceedings; procedure.
W. Va. Code Ann. § 49-4-601

(a) Petitioner and venue. -- If the department or a reputable person believes that a child is neglected or abused, the department or the person may present a petition setting forth the facts to the circuit court in the county in which the child resides, or if the petition is being brought by the department, in the county in which the custodial respondent or other named party abuser resides, or in which the abuse or neglect occurred, or to the judge of the court in vacation. Under no circumstance may a party file a petition in more than one county based on the same set of facts.

(b) Contents of Petition. -- The petition shall be verified by the oath of some credible person having knowledge of the facts. The petition shall allege specific conduct including time and place, how the conduct comes within the statutory definition of neglect or abuse with references thereto, any supportive services provided by the department to remedy the alleged circumstances and the relief sought.

(c) Court action upon filing of petition. - Upon filing of the petition, the court shall set a time and place for a hearing and shall appoint counsel for the child. When there is an order for temporary custody pursuant to this article, the preliminary hearing shall be held within ten days of the order continuing or transferring custody, unless a continuance for a reasonable time is granted to a date certain, for good cause shown.

(d) Department action upon filing of the petition. -- At the time of the institution of any proceeding under this article, the department shall provide supportive services in an effort to remedy circumstances detrimental to a child.

(e) Notice of hearing. --
   (1) The petition and notice of the hearing shall be served upon both parents and any other custodian, giving to the parents or custodian at least five days' actual notice of a preliminary hearing and at least ten days' notice of any other hearing.
   (2) Notice shall be given to the department, any foster or preadoptive parent, and any relative providing care for the child.
   (3) In cases where personal service within West Virginia cannot be obtained after due diligence upon any parent or other custodian, a copy of the petition and notice of the hearing shall be mailed to the person by certified
mail, addressee only, return receipt requested, to the last known address of
the person. If the person signs the certificate, service shall be complete and
the certificate shall be filed as proof of the service with the clerk of the circuit
court.
(4) If service cannot be obtained by personal service or by certified mail,
notice shall be by publication as a Class II legal advertisement in compliance
with article three, chapter fifty-nine of this code.
(5) A notice of hearing shall specify the time and place of the hearing, the
right to counsel of the child and parents or other custodians at every stage
of the proceedings and the fact that the proceedings can result in the
permanent termination of the parental rights.
(6) Failure to object to defects in the petition and notice may not be
construed as a waiver.

(f) Right to counsel. --
(1) In any proceeding under this article, the child, his or her parents and
his or her legally established custodian or other persons standing in loco
parentis to him or her has the right to be represented by counsel at every
stage of the proceedings and shall be informed by the court of their right to
be so represented and that if they cannot pay for the services of counsel,
that counsel will be appointed.
(2) Counsel shall be appointed in the initial order. For parents, legal
guardians, and other persons standing in loco parentis, the representation
may only continue after the first appearance if the parent or other persons
standing in loco parentis cannot pay for the services of counsel.
(3) Counsel for other parties shall only be appointed upon request for
appointment of counsel. If the requesting parties have not retained counsel
and cannot pay for the services of counsel, the court shall, by order entered
of record, appoint an attorney or attorneys to represent the other party or
parties and so inform the parties.
(4) Under no circumstances may the same attorney represent both the child
and the other party or parties, nor may the same attorney represent both
parents or custodians. However, one attorney may represent both parents or
custodians where both parents or guardians consent to this representation
after the attorney fully discloses to the client the possible conflict and where
the attorney assures the court that she or he is able to represent each client
without impairing her or his professional judgment; however, if more than
one child from a family is involved in the proceeding, one attorney may
represent all the children.
(5) A parent who is a copetitioner is entitled to his or her own attorney. The
court may allow to each attorney so appointed a fee in the same amount
which appointed counsel can receive in felony cases.

(g) Continuing education for counsel. -- Any attorney representing a party under this
article shall receive a minimum of eight hours of continuing legal education training
per reporting period on child abuse and neglect procedure and practice. In addition
to this requirement, any attorney appointed to represent a child must first complete
training on representation of children that is approved by the administrative office
of the Supreme Court of Appeals. The Supreme Court of Appeals shall develop
procedures for approval and certification of training required under this section.
Where no attorney has completed the training required by this subsection, the court
shall appoint a competent attorney with demonstrated knowledge of child welfare
law to represent the parent or child. Any attorney appointed pursuant to this section
shall perform all duties required of an attorney licensed to practice law in the State of
West Virginia.

(h) Right to be heard. -- In any proceeding pursuant to this article, the party or parties
having custodial or other parental rights or responsibilities to the child shall be
afforded a meaningful opportunity to be heard, including the opportunity to testify and to present and cross-examine witnesses. Foster parents, preadoptive parents, and relative caregivers shall also have a meaningful opportunity to be heard.

(i) Findings of the court. -- Where relevant, the court shall consider the efforts of the department to remedy the alleged circumstances. At the conclusion of the adjudicatory hearing, the court shall make a determination based upon the evidence and shall make findings of fact and conclusions of law as to whether the child is abused or neglected and whether the respondent is abusing, neglecting, or, if applicable, a battered parent, all of which shall be incorporated into the order of the court. The findings must be based upon conditions existing at the time of the filing of the petition and proven by clear and convincing evidence.

(j) Priority of proceedings. -- Any petition filed and any proceeding held under this article shall, to the extent practicable, be given priority over any other civil action before the court, except proceedings under section three hundred nine, article twenty-seven, chapter forty-eight of this code and actions in which trial is in progress. Any petition filed under this article shall be docketed immediately upon filing. Any hearing to be held at the end of an improvement period and any other hearing to be held during any proceedings under this article shall be held as nearly as practicable on successive days and, with respect to the hearing to be held at the end of an improvement period, shall be held as close in time as possible after the end of the improvement period and shall be held within thirty days of the termination of the improvement period.

(k) Procedural safeguards. -- The petition may not be taken as confessed. A transcript or recording shall be made of all proceedings unless waived by all parties to the proceeding. The rules of evidence shall apply. Following the court's determination, it shall be inquired of the parents or custodians whether or not appeal is desired and the response transcribed. A negative response may not be construed as a waiver. The evidence shall be transcribed and made available to the parties or their counsel as soon as practicable, if the same is required for purposes of further proceedings. If an indigent person intends to pursue further proceedings, the court reporter shall furnish a transcript of the hearing without cost to the indigent person if an affidavit is filed stating that he or she cannot pay therefor.

§ 49-5-101. Confidentiality of records; nonrelease of records; exceptions; penalties.

(a) Except as otherwise provided in this chapter or by order of the court, all records and information concerning a child or juvenile which are maintained by the Division of Juvenile Services, the Department of Health and Human Resources, a child agency or facility, court or law-enforcement agency are confidential and shall not be released or disclosed to anyone, including any federal or state agency.

(b) Notwithstanding the provisions of subsection (a) of this section or any other provision of this code to the contrary, records concerning a child or juvenile, except adoption records and records disclosing the identity of a person making a complaint of child abuse or neglect, may be made available:
   (1) Where otherwise authorized by this chapter;
   (2) To:
      (A) The child;
      (B) A parent whose parental rights have not been terminated; or
      (C) The attorney of the child or parent;
   (3) With the written consent of the child or of someone authorized to act on the child's behalf; or
   (4) Pursuant to an order of a court of record. However, the court shall review
the record or records for relevancy and materiality to the issues in the proceeding and safety, and may issue an order to limit the examination and use of the records or any part thereof.

(c) In addition to those persons or entities to whom information may be disclosed under subsection (b) of this section, information related to child abuse or neglect proceedings, except information relating to the identity of the person reporting or making a complaint of child abuse or neglect, shall be made available, upon request, to:

1. Federal, state or local government entities, or any agent of those entities, including law-enforcement agencies and prosecuting attorneys, having a need for that information in order to carry out its responsibilities under law to protect children from abuse and neglect;
2. The child fatality review team;
3. Child abuse citizen review panels;
4. Multidisciplinary investigative and treatment teams; or
5. A grand jury, circuit court or family court, upon a finding that information in the records is necessary for the determination of an issue before the grand jury, circuit court or family court.

(d) In the event of a child fatality or near fatality due to child abuse and neglect, information relating to a fatality or near fatality shall be made public by the Department of Health and Human Resources and to the entities described in subsection (c) of this section, all under the circumstances described in that subsection. However, information released by the Department of Health and Human Resources pursuant to this subsection may not include the identity of a person reporting or making a complaint of child abuse or neglect. For purposes of this subsection, “near fatality” means any medical condition of the child which is certified by the attending physician to be life threatening.

(e) Except in juvenile proceedings which are transferred to criminal proceedings, law-enforcement records and files concerning a child or juvenile shall be kept separate from the records and files of adults and not included within the court files. Law-enforcement records and files concerning a child or juvenile shall only be open to inspection pursuant to section one hundred three of this article.

(f) Any person who willfully violates this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than $1,000, or confined in jail for not more than six months, or both fined and confined. A person convicted of violating this section is also liable for damages in the amount of $300 or actual damages, whichever is greater.

(g) Notwithstanding the provisions of this section, or any other provision of this code to the contrary, the name and identity of any juvenile adjudicated or convicted of a violent or felonious crime shall be made available to the public.

(h) Notwithstanding the provisions of this section or any other provision of this code to the contrary, the Division of Juvenile Services may provide access to and the confidential use of a treatment plan, court records or other records of a juvenile to an agency in another state which:

1. Performs the same functions in that state that are performed by the Division of Juvenile Services in this state;
2. Has a reciprocal agreement with this state; and
3. Has legal custody of the juvenile.

A record which is shared under this subsection may only provide information which is relevant to the supervision, care, custody and treatment of the juvenile.
(3) The Division of Juvenile Services is authorized to enter into reciprocal agreements with other states and to propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement this subsection.

(4) Other than the authorization explicitly given in this subsection, this subsection may not be construed to enlarge or restrict access to juvenile records as provided elsewhere in this code.

(i) The records subject to disclosure pursuant to subsection (b) of this section shall not include a recorded/videotaped interview, as defined in subdivision (6), section two, article six-b, chapter sixty-two of this code, the disclosure of which is exclusively subject to the provisions of section six of said article.

§ 48-26-805. Continuing education for school personnel who are required to report child abuse and neglect.

(a)

(1) Subject to the provisions of subdivision (2) of this subsection, the state department of education shall provide or require courses of continuing education concerning domestic violence for employees who are required by law to report child abuse or neglect.

(2) Funding for the continuing education provided or required under subdivision (1) of this section may not exceed the amounts allocated for that purpose by the spending unit from existing appropriations. No provision of this section may be construed to require the Legislature to make any appropriation.

(b) The courses or requirements shall be prepared and presented in consultation with public and private agencies that provide programs for victims of domestic violence, persons who have demonstrated expertise in education and domestic violence, advocates for victims, organizations representing the interests of shelters and the family protection services board.

§ 61-6-25. Falsely reporting child abuse.

(a) Any person who knowingly and intentionally reports or causes to be reported to a law enforcement officer, child protective service worker or judicial officer that another has committed child sexual abuse, child abuse or neglect as such are defined in section three, article one, chapter forty-nine of this code who when doing so knows or has reason to know such accusation is false and who does it with the intent to influence a child custody decision shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one thousand dollars, sentenced to not more than sixty hours of court-approved community service, or both.

(b) In addition to any other sanctions imposed by the provisions of this section, any person convicted of a violation of this section shall be required to attend and complete a court-approved parenting class.
§ 48.981. Abused or neglected children and abused unborn children.  
Wis. Stat. Ann. § 49.981

(1) Definitions. In this section:

(a) "Agency" means a county department, the department in a county having a population of 750,000 or more or a licensed child welfare agency under contract with a county department or the department in a county having a population of 750,000 or more to perform investigations under this section.

(b) "Caregiver" means, with respect to a child who is the victim or alleged victim of abuse or neglect or who is threatened with abuse or neglect, any of the following persons:
   1. The child's parent, grandparent, greatgrandparent, stepparent, brother, sister, stepbrother, stepsister, half brother, or half sister.
   2. The child's guardian.
   3. The child's legal custodian.
   4. A person who resides or has resided regularly or intermittently in the same dwelling as the child.
   5. An employee of a residential facility or residential care center for children and youth in which the child was or is placed.
   6. A person who provides or has provided care for the child in or outside of the child's home.
   7. Any other person who exercises or has exercised temporary or permanent control over the child or who temporarily or permanently supervises or has supervised the child.
   8. Any relative of the child other than a relative specified in subd. 1.

(b) "Community placement" means probation; extended supervision; parole; aftercare; conditional transfer into the community under s. 51.35 (1); conditional transfer or discharge under s. 51.37 (9); placement in a Type 2 residential care center for children and youth or a Type 2 juvenile correctional facility authorized under s. 938.539 (5); conditional release under s. 971.17; supervised release under s. 980.06 or 980.08; participation in the community residential confinement program under s. 301.046, the intensive sanctions program under s. 301.048, community supervision under s. 938.533, the intensive supervision program under s. 938.534, or the serious juvenile offender program under s. 938.538; or any other placement of an adult or juvenile offender in the community under the custody or supervision of the department of corrections, the department of health services, a county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437 or any other person under contract with the department of corrections, the department of health services or a county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437 to exercise custody or supervision over the offender.

(ct) "Indian unborn child" means an unborn child who, when born, may be eligible for affiliation with an Indian tribe in any of the following ways:
   1. As a member of the Indian tribe.
   2. As a person who is eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.

(cu) "Juvenile correctional officer" means a person employed by the state, a political subdivision of the state, a child welfare agency that is licensed under s. 48.66 (1) (b), or a private entity contracting under s. 938.222 whose principal duty is the supervision of juveniles held in a juvenile detention facility, a juvenile correctional facility, or a secured residential care center for children and youth.

(cv) "Member of a religious order" means an individual who has taken vows devoting himself or herself to religious or spiritual principles and who is authorized or appointed by his or her religious order or organization to provide spiritual or religious advice or service.

(cx) "Member of the clergy" has the meaning given in s. 765.002 (1) or means a member of a religious order, and includes brothers, ministers, monks,
nuns, priests, rabbis, and sisters.

(f) “Record” means any document relating to the investigation, assessment and disposition of a report under this section.

(g) “Reporter” means a person who reports suspected abuse or neglect or a belief that abuse or neglect will occur under this section.

(h) “Subject” means a person or unborn child named in a report or record as any of the following:

1. A child who is the victim or alleged victim of abuse or neglect or who is threatened with abuse or neglect.
   1m. An unborn child who is the victim or alleged victim of abuse or who is at substantial risk of abuse.
2. A person who is suspected of abuse or neglect or who has been determined to have abused or neglected a child or to have abused an unborn child.


(2) Persons required to report.

(a) Any of the following persons who has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under subs. (2m) and (2r), report as provided in sub. (3):

1. A physician.
2. A coroner.
3. A medical examiner.
4. A nurse.
5. A dentist.
6. A chiropractor.
7. An optometrist.
8. An acupuncturist.
9. A medical or mental health professional not otherwise specified in this paragraph.
10. A social worker.
11. A marriage and family therapist.
12. A professional counselor.
13. A public assistance worker, including a financial and employment planner, as defined in s. 49.141 (1) (d).
15. A school administrator
16m. A school employee not otherwise specified in this paragraph.
17. A mediator under s. 767.405.
18. A child care worker in a child care center, group home, or residential care center for children and youth.
19. A child care provider.
20. An alcohol or other drug abuse counselor.
21. A member of the treatment staff employed by or working under contract with a county department under s. 46.23, 51.42, or 51.437 or a residential care center for children and youth.
22. A physical therapist.
22m. A physical therapist assistant.
23. An occupational therapist.
25. A speech-language pathologist.
27. An emergency medical services practitioner.
28. An emergency medical responder, as defined in s. 256.01 (4p).
29. A police or law enforcement officer.
30. A juvenile correctional officer.

(b) A court-appointed special advocate who has reasonable cause to suspect that a child seen in the course of activities under s. 48.236 (3) has been abused or neglected or who has reason to believe that a child seen in the course of those activities has been threatened with abuse and neglect and that abuse or neglect of the child will occur shall, except as provided in subs. (2m) and (2r), report as provided in sub. (3).

(bm) 1. Except as provided in subd. 3. and subs. (2m) and (2r), a member of the clergy shall report as provided in sub. (3) if the member of the clergy has reasonable cause to suspect that a child seen by the member of the clergy in the course of his or her professional duties:
   a. Has been abused, as defined in s. 48.02 (1) (b) to (f); or
   b. Has been threatened with abuse, as defined in s. 48.02 (1) (b) to (f), and abuse of the child will likely occur.

2. Except as provided in subd. 3. and subs. (2m) and (2r), a member of the clergy shall report as provided in sub. (3) if the member of the clergy has reasonable cause, based on observations made or information that he or she receives, to suspect that a member of the clergy has done any of the following:
   a. Abused a child, as defined in s. 48.02 (1) (b) to (f).
   b. Threatened a child with abuse, as defined in s. 48.02 (1) (b) to (f), and abuse of the child will likely occur.

3. A member of the clergy is not required to report child abuse information under subd. 1. or 2. that he or she receives solely through confidential communications made to him or her privately or in a confessional setting if he or she is authorized to hear or is accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or is expected to keep those communications secret. Those disciplines, tenets, or traditions need not be in writing.

(c) Any person not otherwise specified in par. (a), (b), or (bm), including an attorney, who has reason to suspect that a child has been abused or neglected or who has reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may report as provided in sub. (3).

(d) Any person, including an attorney, who has reason to suspect that an unborn child has been abused or who has reason to believe that an unborn child is at substantial risk of abuse may report as provided in sub. (3).

(e) No person making a report under this subsection in good faith may be discharged from employment, disciplined or otherwise discriminated against in regard to employment, or threatened with any such treatment for so doing.

(2m) Exception to reporting requirement; health care services.
   (a) The purpose of this subsection is to allow children to obtain confidential health care services.
   (b) In this subsection:
      1. “Health care provider” means a physician, as defined under s. 448.01 (5), a physician assistant, as defined under s. 448.01 (6), or a nurse holding a certificate of registration under s. 441.06 (1) or a license under s. 441.10.
      2. “Health care service” means family planning services, as defined in s. 253.07 (1) (b), 1995 stats., pregnancy testing, obstetrical
health care or screening, diagnosis and treatment for a sexually transmitted disease.

(c) Except as provided under pars. (d) and (e), the following persons are not required to report as suspected or threatened abuse, as defined in s. 48.02 (1) (b), sexual intercourse or sexual contact involving a child:
  1. A health care provider who provides any health care service to a child.
  4. A person who obtains information about a child who is receiving or has received health care services from a health care provider.

(d) Any person described under par. (c) 1. or 4. shall report as required under sub. (2) if he or she has reason to suspect any of the following:
  1. That the sexual intercourse or sexual contact occurred or is likely to occur with a caregiver.
  2. That the child suffered or suffers from a mental illness or mental deficiency that rendered or renders the child temporarily or permanently incapable of understanding or evaluating the consequences of his or her actions.
  3. That the child, because of his or her age or immaturity, was or is incapable of understanding the nature or consequences of sexual intercourse or sexual contact.
  4. That the child was unconscious at the time of the act or for any other reason was physically unable to communicate unwillingness to engage in sexual intercourse or sexual contact.
  5. That another participant in the sexual contact or sexual intercourse was or is exploiting the child.

(e) In addition to the reporting requirements under par. (d), a person described under par. (c) 1. or 4. shall report as required under sub. (2) if he or she has any reasonable doubt as to the voluntariness of the child's participation in the sexual contact or sexual intercourse.

(2r) Exception to reporting requirement; person delegated parental powers. A person delegated care and custody of a child under s. 48.979 is not required to report as provided in sub. (3) any suspected or threatened abuse or neglect of the child as required under sub. (2) (a), (b), or (bm) or (2m) (d) or (e). Such a person who has reason to suspect that the child has been abused or neglected or who has reason to believe that the child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may report as provided in sub. (3).

(3) Reports; investigation.

(a) Referral of report.
  1. A person required to report under sub. (2) shall immediately inform, by telephone or personally, the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department or the sheriff or city, village, or town police department of the facts and circumstances contributing to a suspicion of child abuse or neglect or of unborn child abuse or to a belief that abuse or neglect will occur.
  2. The sheriff or police department shall within 12 hours, exclusive of Saturdays, Sundays, or legal holidays, refer to the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department all of the following types of cases reported to the sheriff or police department:
     a. Cases in which a caregiver is suspected of abuse or neglect or of threatened abuse or neglect of a child.
     b. Cases in which a caregiver is suspected of facilitating or failing to take action to prevent the suspected or
threatened abuse or neglect of a child.

bm. Cases in which a person who is not a caregiver is suspected of abuse, as defined in s. 48.02 (1) (cm) or (d), of a child.

c. Cases in which it cannot be determined who abused or neglected or threatened to abuse or neglect a child.

d. Cases in which there is reason to suspect that an unborn child has been abused or there is reason to believe that an unborn child is at substantial risk of abuse.

2d. Except when referral is required under subd. 2. bm., the sheriff or police department may refer to the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department a case reported to the sheriff or police department in which a person who is not a caregiver is suspected of abuse or of threatened abuse of a child.

NOTE: Subd. 2d. is shown as affected by 2015 Wis. Acts 172 and 367, as merged by the legislative reference bureau under s. 13.92 (2) (i).

2g. The county department, department, or licensed child welfare agency may require that a subsequent report of a case referred under subd. 2. or 2d. be made in writing.

3. Except as provided in sub. (3m), a county department, the department, or a licensed child welfare agency under contract with the department shall within 12 hours, exclusive of Saturdays, Sundays, or legal holidays, refer to the sheriff or police department all cases of suspected or threatened abuse, as defined in s. 48.02 (1) (b) to (f), reported to it. For cases of suspected or threatened abuse, as defined in s. 48.02 (1) (a), (am), (g), or (gm), or neglect, each county department, the department, and a licensed child welfare agency under contract with the department shall adopt a written policy specifying the kinds of reports it will routinely report to local law enforcement authorities.

4. If the report is of suspected or threatened abuse, as defined in s. 48.02 (1) (b) to (f), the sheriff or police department and the county department, department, or licensed child welfare agency under contract with the department shall coordinate the planning and execution of the investigation of the report.

(b) Duties of local law enforcement agencies.

1. Any person reporting under this section may request an immediate investigation by the sheriff or police department if the person has reason to suspect that the health or safety of a child or of an unborn child is in immediate danger. Upon receiving such a request, the sheriff or police department shall immediately investigate to determine if there is reason to believe that the health or safety of the child or unborn child is in immediate danger and take any necessary action to protect the child or unborn child.

2. If the investigating officer has reason under s. 48.19 (1) (c) or (cm) or (d) 5. or 8. to take a child into custody, the investigating officer shall take the child into custody and deliver the child to the intake worker under s. 48.20.

2m. If the investigating officer has reason under s. 48.193 (1) (c) or (d) 2. to take the adult expectant mother of an unborn child into custody, the investigating officer shall take the adult expectant mother into custody and deliver the adult expectant mother to the intake worker under s. 48.203.

3. If the sheriff or police department determines that criminal action is necessary, the sheriff or police department shall refer the case to the district attorney for criminal prosecution. Each sheriff and police
department shall adopt a written policy specifying the kinds of reports of suspected or threatened abuse, as defined in s. 48.02 (1) (b) to (f), that the sheriff or police department will routinely refer to the district attorney for criminal prosecution.

(bm) Notice of report to Indian tribal agent. In a county that has wholly or partially within its boundaries a federally recognized Indian reservation or a bureau of Indian affairs service area for the Ho-Chunk tribe, if a county department that receives a report under par. (a) pertaining to a child or unborn child knows or has reason to know that the child is an Indian child who resides in the county or that the unborn child is an Indian unborn child whose expectant mother resides in the county, the county department shall provide notice, which shall consist only of the name and address of the Indian child or expectant mother and the fact that a report has been received about that Indian child or Indian unborn child, within 24 hours to one of the following:

1. If the county department knows with which Indian tribe the child is affiliated, or with which Indian tribe the Indian unborn child, when born, may be eligible for affiliation, and the Indian tribe is a Wisconsin Indian tribe, the tribal agent of that tribe.
2. If the county department does not know with which Indian tribe the child is affiliated, or with which Indian tribe the Indian unborn child, when born, may be eligible for affiliation, or the child or expectant mother is not affiliated with a Wisconsin Indian tribe, the tribal agent serving the reservation or Ho-Chunk service area where the child or expectant mother resides.
3. If neither subd. 1. nor 2. applies, any tribal agent serving a reservation or Ho-Chunk service area in the county.

(c) Duties of county departments.

1. a. Immediately after receiving a report under par. (a), the agency shall evaluate the report to determine whether there is reason to suspect that a caregiver has abused or neglected the child, has threatened the child with abuse or neglect, or has facilitated or failed to take action to prevent the suspected or threatened abuse or neglect of the child or that a person who is not a caregiver has committed or threatened abuse, as defined in s. 48.02 (1) (cm) or (d), of the child. Except as provided in sub. (3m), if the agency determines that a caregiver is suspected of abuse or neglect, of threatened abuse or neglect, or of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of the child; determines that a person who is not a caregiver has committed or threatened abuse, as defined in s. 48.02 (1) (cm) or (d), of the child; or cannot identify an individual who is suspected of abuse or neglect or of threatened abuse or neglect of the child, within 24 hours after receiving the report the agency shall, in accordance with the authority granted to the department under s. 48.48 (17) (a) 1. or the county department under s. 48.57 (1) (a), initiate a diligent investigation to determine if the child is in need of protection or services. Except when initiating an investigation is required under this subd. 1. a., if the agency determines that a person who is not a caregiver is suspected of abuse or of threatened abuse, the agency may, in accordance with that authority, initiate a diligent investigation to determine if the child is in need of protection or services. Within 24 hours after receiving a report under par. (a) of suspected unborn child abuse, the agency, in accordance with that authority, shall initiate a diligent investigation to determine if the unborn child is in need of protection or services. An investigation under this subd. 1. a.
shall be conducted in accordance with standards established by the
department for conducting child abuse and neglect investigations or
unborn child abuse investigations.

b. If the investigation is of a report of child abuse or neglect or of
threatened child abuse or neglect by a caregiver specified in sub.
(1)(am) 5. to 8. who continues to have access to the child or a
caregiver specified in sub. (1)(am) 1. to 4., or of a report that does
not disclose who is suspected of the child abuse or neglect and in
which the investigation does not disclose who abused or neglected
the child, the investigation shall also include observation of or an
interview with the child, or both, and, if possible, an interview with
the child's parents, guardian, or legal custodian. If the investigation
is of a report of child abuse or neglect or threatened child abuse
or neglect by a caregiver who continues to reside in the same
dwelling as the child, the investigation shall also include, if possible,
a visit to that dwelling. At the initial visit to the child's dwelling, the
person making the investigation shall identify himself or herself
and the agency involved to the child's parents, guardian, or legal
custodian. The agency may contact, observe, or interview the
child at any location without permission from the child's parent,
guardian, or legal custodian if necessary to determine if the child is
in need of protection or services, except that the person making the
investigation may enter a child's dwelling only with permission from
the child's parent, guardian, or legal custodian or after obtaining a
court order permitting the person to do so.

2. a. If the person making the investigation is an employee of the
county department or, in a county having a population of 750,000
or more, the department or a licensed child welfare agency under
contract with the department and he or she determines that it is
consistent with the child's best interest in terms of physical safety
and physical health to remove the child from his or her home for
immediate protection, he or she shall take the child into custody
under s. 48.08 (2) or 48.19 (1) (c) and deliver the child to the intake
worker under s. 48.20.

b. If the person making the investigation is an employee of a
licensed child welfare agency which is under contract with the
county department and he or she determines that any child in
the home requires immediate protection, he or she shall notify
the county department of the circumstances and together with an
employee of the county department shall take the child into custody
under s. 48.08 (2) or 48.19 (1) (c) and deliver the child to the intake
worker under s. 48.20.

2m. a. If the person making the investigation is an employee of the
county department or, in a county having a population of 750,000
or more, the department or a licensed child welfare agency under
contract with the department and he or she determines that it is
consistent with the best interest of the unborn child in terms of
physical safety and physical health to take the expectant mother
into custody for the immediate protection of the unborn child, he or
she shall take the expectant mother into custody under s. 48.08 (2),
48.19 (1) (cm) or 48.193 (1) (c) and deliver the expectant mother to
the intake worker under s. 48.20 or 48.203.

b. If the person making the investigation is an employee of a
licensed child welfare agency which is under contract with the
county department and he or she determines that any unborn child
requires immediate protection, he or she shall notify the county
department of the circumstances and together with an employee of the county department shall take the expectant mother of the unborn child into custody under s. 48.08 (2), 48.19 (1) (cm) or 48.193 (1) (c) and deliver the expectant mother to the intake worker under s. 48.20 or 48.203.

3. If the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department determines that a child, any member of the child's family or the child's guardian or legal custodian is in need of services or that the expectant mother of an unborn child is in need of services, the county department, department or licensed child welfare agency shall offer to provide appropriate services or to make arrangements for the provision of services. If the child's parent, guardian or legal custodian or the expectant mother refuses to accept the services, the county department, department or licensed child welfare agency may request that a petition be filed under s. 48.13 alleging that the child who is the subject of the report or any other child in the home is in need of protection or services or that a petition be filed under s. 48.133 alleging that the unborn child who is the subject of the report is in need of protection or services.

4. The county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department shall determine, within 60 days after receipt of a report that the county department, department, or licensed child welfare agency investigates under subd. 1., whether abuse or neglect has occurred or is likely to occur. The determination shall be based on a preponderance of the evidence produced by the investigation. A determination that abuse or neglect has occurred may not be based solely on the fact that the child's parent, guardian, or legal custodian in good faith selects and relies on prayer or other religious means for treatment of disease or for remedial care of the child. In making a determination that emotional damage has occurred, the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department shall give due regard to the culture of the subjects. This subdivision does not prohibit a court from ordering medical services for the child if the child's health requires it.

5. The agency shall maintain a record of its actions in connection with each report it receives. The record shall include a description of the services provided to any child and to the parents, guardian or legal custodian of the child or to any expectant mother of an unborn child. The agency shall update the record every 6 months until the case is closed.

5m. The county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department may include in a determination under subd. 4. a determination that a specific person has abused or neglected a child. If the county department, department, or licensed child welfare agency makes an initial determination that a specific person has abused or neglected a child, the county department, department, or licensed child welfare agency shall provide that person with an opportunity for a review of that initial determination in accordance with rules promulgated by the department before the county department, department, or licensed child welfare agency may make a final determination that the person has abused or neglected a child. Within 5 days after the date of a final
determination that a specific person has abused or neglected a child, the county department, department, or licensed child welfare agency shall notify the person in writing of the determination, the person's right to a contested case hearing on the determination under ch. 227, and the procedures under subd. 5p. by which the person may receive that hearing.

5p. A person who is the subject of a final determination under subd. 5m. that the person has abused or neglected a child has the right to a contested case hearing on that determination under ch. 227. To receive that hearing, the person must send to the department a written request for a hearing under s. 227.44 within 10 days after the date of the notice under subd. 5m. of the determination. The department shall commence the hearing within 90 days after receipt of the request for the hearing, unless the hearing is rescheduled on the request of the person requesting the hearing or the contested case proceeding is held in abeyance as provided in this subdivision, and shall issue a final decision within 60 days after the close of the hearing. Judicial review of the final administrative decision following the hearing may be had by any party to the contested case proceeding as provided in ch. 227. The person presiding over a contested case proceeding under this subdivision may hold the hearing in abeyance pending the outcome of any criminal proceedings or any proceedings under s. 48.13 based on the alleged abuse or neglect or the outcome of any investigation that may lead to the filing of a criminal complaint or a petition under s. 48.13 based on the alleged abuse or neglect.

5r. Within 15 days after a final determination is made under subd. 5m. that a specific person has abused or neglected a child or, if a contested case hearing is held on such a determination, within 15 days after a final decision is made under subd. 5p. determining that a specific person has abused or neglected a child, the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department shall provide the subunit of the department that administers ss. 48.685 and 48.686 with information about the person who has been determined to have abused or neglected the child.

6. The agency shall, within 60 days after it receives a report from a person required under sub. (2) to report, inform the reporter what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report.

6m. If a person who is not required under sub. (2) to report makes a report and is a relative of the child, other than the child's parent, or is a relative of the expectant mother of the unborn child, that person may make a written request to the agency for information regarding what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report. An agency that receives a written request under this subdivision shall, within 60 days after it receives the report or 20 days after it receives the written request, whichever is later, inform the reporter in writing of what action, if any, was taken to protect the health and welfare of the child or unborn child, unless a court order prohibits that disclosure, and of the duty to keep the information confidential under sub. (7) (e) and the penalties for failing to do so under sub. (7) (f). The agency may petition the court ex parte for an order prohibiting that disclosure and, if the agency does so, the time period within which the information must be disclosed is tolled on the date the petition is filed and remains tolled until the court issues
a decision. The court may hold an ex parte hearing in camera and shall issue an order granting the petition if the court determines that disclosure of the information would not be in the best interests of the child or unborn child.

7. The county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department shall cooperate with law enforcement officials, courts of competent jurisdiction, tribal governments and other human services agencies to prevent, identify and treat child abuse and neglect and unborn child abuse. The county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department shall coordinate the development and provision of services to abused and neglected children, to abused unborn children to families in which child abuse or neglect has occurred, to expectant mothers who have abused their unborn children, to children and families when circumstances justify a belief that abuse or neglect will occur and to the expectant mothers of unborn children when circumstances justify a belief that unborn child abuse will occur.

8. Using the format prescribed by the department, each county department shall provide the department with information about each report that the county department receives or that is received by a licensed child welfare agency that is under contract with the county department and about each investigation that the county department or a licensed child welfare agency under contract with the county department conducts. Using the format prescribed by the department, a licensed child welfare agency under contract with the department shall provide the department with information about each report that the child welfare agency receives and about each investigation that the child welfare agency conducts. The department shall use the information to monitor services provided by county departments or licensed child welfare agencies under contract with county departments or the department. The department shall use nonidentifying information to maintain statewide statistics on child abuse and neglect and on unborn child abuse, and for planning and policy development purposes.

9. The agency may petition for child abuse restraining orders and injunctions under s. 48.25 (6).

(cm) Contract with licensed child welfare agencies. A county department may contract with a licensed child welfare agency to fulfill the county department's duties specified under par. (c) 1., 2. b., 2m. b., 5., 5r., 6., 6m., and 8. The department may contract with a licensed child welfare agency to fulfill the department's duties specified under par. (c) 1., 2. a., 2m. b., 3., 4., 5., 5m., 5r., 6., 6m., 7., 8., and 9. in a county having a population of 750,000 or more. The confidentiality provisions specified in sub. (7) shall apply to any licensed child welfare agency with which a county department or the department contracts.

(cr) Contracts to perform child protective services. With the approval of the department, a county department may contract with one or more county departments or the department in a county having a population of 750,000 or more under s. 66.0301 to fulfill the county department's duties under this subsection and sub. (3m).

(d) Independent investigation.

1. In this paragraph, “agent” includes a foster parent or other person given custody of a child or a human services professional employed by a county department under s. 51.42 or 51.437 or by a child welfare agency who is working with a child or an expectant
(3m) Alternative response pilot program.

(a) In this subsection, "substantial abuse or neglect" means abuse or neglect or threatened abuse or neglect that under the guidelines developed by the department under par. (b) constitutes severe abuse or neglect or a threat of severe abuse or neglect and a significant threat to the safety of a child and his or her family.

(b) The department shall establish a pilot program under which an agency in a county having a population of 750,000 or more or a county department that is selected to participate in the pilot program may employ alternative responses to a report of abuse or neglect or of threatened abuse or neglect. The department shall select agencies and county departments to participate in the pilot program in accordance with the department's request-for-proposal procedures and according to criteria developed by the department. Those criteria shall include an assessment of the plan of an agency or county department for involving the community in providing services for a family that is participating in the pilot program and a determination of whether an agency or a county department has an agreement with local law enforcement agencies and the representative of the public under s. 48.09 to ensure interagency cooperation in implementing the pilot program. To implement the pilot program, the department shall provide all of the following:

1. Guidelines for determining the appropriate alternative response to a report of abuse or neglect or of threatened abuse or neglect, including guidelines for determining what types of abuse or neglect or threatened abuse or neglect constitute substantial abuse or neglect. The department need not promulgate those guidelines as rules under ch. 227.

2. Training and technical assistance for an agency or county department that is selected to participate in the pilot program.

(c) Immediately after receiving a report under sub. (3) (a), an agency or county department that is participating in the pilot program shall evaluate the report to determine the most appropriate alternative response under subs. 1. to 3. to the report. Based on that evaluation, the agency or county department shall respond to the report as follows:

1. If the agency or county department determines that there is reason to suspect that substantial abuse or neglect has occurred or
is likely to occur or that an investigation under sub. (3) is otherwise necessary to ensure the safety of the child and his or her family, the agency or county department shall investigate the report as provided in sub. (3). If in conducting that investigation the agency or county department determines that it is not necessary for the safety of the child and his or her family to complete the investigation, the agency or county department may terminate the investigation and conduct an assessment under subd. 2. If the agency or county department terminates an investigation, the agency or county department shall document the reasons for terminating the investigation and notify any law enforcement agency that is cooperating in the investigation.

2.

a. If the agency or county department determines that there is reason to suspect that abuse or neglect, other than substantial abuse or neglect, has occurred or is likely to occur, but that under the guidelines developed by the department under par. (b) there is no immediate threat to the safety of the child and his or her family and court intervention is not necessary, the agency or county department shall conduct a comprehensive assessment of the safety of the child and his or her family, the risk of subsequent abuse or neglect, and the strengths and needs of the child’s family to determine whether services are needed to address those issues assessed and, based on the assessment, shall offer to provide appropriate services to the child’s family on a voluntary basis or refer the child’s family to a service provider in the community for the provision of those services.

b. If the agency or county department employs the assessment response under subd. 2. a., the agency or county department is not required to refer the report to the sheriff or police department under sub. (3) (a) 3. or determine by a preponderance of the evidence under sub. (3) (c) 4. that abuse or neglect has occurred or is likely to occur or that a specific person has abused or neglected the child. If in conducting the assessment the agency or county department determines that there is reason to suspect that substantial abuse or neglect has occurred or is likely to occur or that an investigation under sub. (3) is otherwise necessary to ensure the safety of the child and his or her family, the agency or county department shall immediately commence an investigation under sub. (3).

3. If the agency or county department determines that there is no reason to suspect that abuse or neglect has occurred or is likely to occur, the agency or county department shall refer the child’s family to a service provider in the community for the provision of appropriate services on a voluntary basis. If the agency or county department employs the community services response under this subdivision, the agency or county department is not required to conduct an assessment under subd. 2., refer the report to the sheriff or police department under sub. (3) (a) 3., or determine by a preponderance of the evidence under sub. (3) (c) 4. that abuse or neglect has occurred or is likely to occur or that a specific person has abused or neglected the child.

(d) The department shall conduct an evaluation of the pilot program and, by July 1, 2012, shall submit a report of that evaluation to the governor and to the appropriate standing committees of the legislature under s. 13.172.
(3) The evaluation shall assess the issues encountered in implementing the pilot program and the overall operations of the pilot program, include specific measurements of the effectiveness of the pilot program, and make recommendations to improve that effectiveness. Those specific measurements shall include all of the following:

1. The turnover rate of the agency or county department caseworkers providing services under the pilot program.
2. The number of families referred for each type of response specified in par. (c) 1. to 3.
3. The number of families that accepted, and the number of families that declined to accept, services offered under par. (c) 2. and 3.
4. The effectiveness of the evaluation under par. (c) (intro.) in determining the appropriate response under par. (c) 1. to 3.
5. The impact of the pilot program on the number of out-of-home placements of children by the agencies or county departments participating in the pilot program.
6. The availability of services to address the issues of child and family safety, risk of subsequent abuse or neglect, and family strengths and needs in the communities served under the pilot project.
7g. The rate at which children referred for each type of response specified in par. (c) 1. to 3. are subsequently the subjects of reports of suspected or threatened abuse or neglect.
7m. The satisfaction of families referred for each type of response specified in par. (c) 1. to 3. with the process used to respond to those referrals.
7r. The cost effectiveness of responding to reports of suspected or threatened abuse or neglect in the manner provided under the pilot program.

(4) Immunity from liability. Any person or institution participating in good faith in the making of a report, conducting an investigation, ordering or taking of photographs or ordering or performing medical examinations of a child or of an expectant mother under this section shall have immunity from any liability, civil or criminal, that results by reason of the action. For the purpose of any proceeding, civil or criminal, the good faith of any person reporting under this section shall be presumed. The immunity provided under this subsection does not apply to liability for abusing or neglecting a child or for abusing an unborn child.

(5) Coroner's report. Any person or official required to report cases of suspected child abuse or neglect who has reasonable cause to suspect that a child died as a result of child abuse or neglect shall report the fact to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation and shall report the findings to the appropriate district attorney; to the department or, in a county having a population of 750,000 or more, to a licensed child welfare agency under contract with the department; to the county department and, if the institution making the report initially is a hospital, to the hospital.

(6) Penalty. Whoever intentionally violates this section by failure to report as required may be fined not more than $1,000 or imprisoned not more than 6 months or both.

(7) Confidentiality.

   (a) All reports made under this section, notices provided under sub. (3) (bm) and records maintained by an agency and other persons, officials and institutions shall be confidential. Reports and records may be disclosed only to the following persons:

   1. The subject of a report, except that the person or agency maintaining the record or report may not disclose any information
that would identify the reporter.

1m. A reporter described in sub. (3) (c) 6m. who makes a written request to an agency for information regarding what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report, unless a court order under sub. (3) (c) 6m. prohibits disclosure of that information to that reporter, except that the only information that may be disclosed is information in the record regarding what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report.

2. Appropriate staff of an agency or a tribal social services department.

2m. A person authorized to provide or providing intake or dispositional services for the court under s. 48.067, 48.069 or 48.10.

2r. A person authorized to provide or providing intake or dispositional services under s. 938.067, 938.069 or 938.10.

3. A health care provider, as defined in s. 146.81 (1) (a) to (p), for purposes of diagnosis and treatment.

3m. A child’s parent, guardian or legal custodian or the expectant mother of an unborn child, except that the person or agency maintaining the record or report may not disclose any information that would identify the reporter.

4. A child’s foster parent or other person having physical custody of the child or a person having physical custody of the expectant mother of an unborn child, except that the person or agency maintaining the record or report may not disclose any information that would identify the reporter.

4m. A relative of a child placed outside of his or her home only to the extent necessary to facilitate the establishment of a relationship between the child and the relative or a placement of the child with the relative or to a person provided with the notice under s. 48.21 (5) (e), 48.355 (2) (cm), or 48.357 (2v) (d). In this subdivision, “relative” includes a relative whose relationship is derived through a parent of the child whose parental rights are terminated.

4p. A public or private agency in this state or any other state that is investigating a person for purposes of licensing the person to operate a foster home or placing a child for adoption in the home of the person.

5. A professional employee of a county department under s. 51.42 or 51.437 who is working with the child or the expectant mother of the unborn child under contract with or under the supervision of the county department under s. 46.22 or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department.

6. A multidisciplinary child abuse and neglect or unborn child abuse team recognized by the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department.

6m. A person employed by a child advocacy center recognized by the county board, the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department, to the extent necessary to perform the services for which the center is recognized by the county board, the county department, the department or the licensed child welfare agency.

8. A law enforcement officer or law enforcement agency or a district attorney for purposes of investigation or prosecution.

8m. The department of corrections, the department of health
services, a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 or any other person under contract with the department of corrections, the department of health services or a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 to exercise custody or supervision over a person who is subject to community placement for purposes of investigating or providing services to a person who is subject to community placement and who is the subject of a report. In making its investigation, the department of corrections, department of health services, county department or other person shall cooperate with the agency making the investigation under sub. (3) (c) or (d).

8s. Authorized representatives of the department of corrections, the department of health services, the department of justice, or a district attorney for use in the prosecution of any proceeding or any evaluation conducted under ch. 980, if the reports or records involve or relate to an individual who is the subject of the proceeding or evaluation. The court in which the proceeding under ch. 980 is pending may issue any protective orders that it determines are appropriate concerning information made available or disclosed under this subdivision. Any representative of the department of corrections, the department of health services, the department of justice, or a district attorney may disclose information obtained under this subdivision for any purpose consistent with any proceeding under ch. 980.

9. A court or administrative agency for use in a proceeding relating to the licensing or regulation of a facility regulated under this chapter.

10. A court conducting proceedings under s. 48.21 or 48.213, a court conducting proceedings related to a petition under s. 48.13, 48.133 or 48.42 or a court conducting dispositional proceedings under subch. VI or VIII in which abuse or neglect of the child who is the subject of the report or record or abuse of the unborn child who is the subject of the report or record is an issue.

10g. A court conducting proceedings under s. 48.21, a court conducting proceedings related to a petition under s. 48.13 (3m) or (10m) or a court conducting dispositional proceedings under subch. VI in which an issue is the substantial risk of abuse or neglect of a child who, during the time period covered by the report or record, was in the home of the child who is the subject of the report or record.

10j. A court conducting proceedings under s. 938.21, a court conducting proceedings relating to a petition under ch. 938 or a court conducting dispositional proceedings under subch. VI of ch. 938 in which abuse or neglect of the child who is the subject of the report or record is an issue.

10m. A tribal court, or other adjudicative body authorized by an Indian tribe to perform child welfare functions, that exercises jurisdiction over children and unborn children alleged to be in need of protection or services for use in proceedings in which abuse or neglect of the child who is the subject of the report or record or abuse of the unborn child who is the subject of the report or record is an issue.

10r. A tribal court, or other adjudicative body authorized by an Indian tribe to perform child welfare functions, that exercises jurisdiction over children alleged to be in need of protection or services for use in proceedings in which an issue is the substantial risk of abuse or neglect of a child who, during the time period covered by the report or record, was in the home of the child who is
the subject of the report or record.

11. The county corporation counsel or district attorney representing the interests of the public, the agency legal counsel and the counsel or guardian ad litem representing the interests of a child in proceedings under subd. 10., 10g. or 10j. and the guardian ad litem representing the interests of an unborn child in proceedings under subd. 10.

11m. An attorney representing the interests of an Indian tribe in proceedings under subd. 10m. or 10r., of an Indian child in proceedings under subd. 10m. or 10r. or of an Indian unborn child in proceedings under subd. 10m.

11r. A volunteer court-appointed special advocate designated under s. 48.236 (1) or person employed by a court-appointed special advocate program recognized by the chief judge of a judicial administrative district under s. 48.07 (5), to the extent necessary for the court-appointed special advocate to perform the advocacy services specified in s. 48.236 (3) that the court-appointed special advocate was designated to perform in proceedings related to a petition under s. 48.13.

12. A person engaged in bona fide research, with the permission of the department. Information identifying subjects and reporters may not be disclosed to the researcher.

13. The department, a county department under s. 48.57 (1) (e) or (hm) or a licensed child welfare agency ordered to conduct a screening or an investigation of a stepparent under s. 48.88 (2) (c).

14. A grand jury if it determines that access to specified records is necessary for the conduct of its official business.

14m. A judge conducting proceedings under s. 968.26.

15. A child fatality review team recognized by the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department.

15g. A citizen review panel established or designated by the department or a county department.

15m. A coroner, medical examiner or pathologist or other physician investigating the cause of death of a child whose death is unexplained or unusual or is associated with unexplained or suspicious circumstances.

17. A federal agency, state agency of this state or any other state or local governmental unit located in this state or any other state that has a need for a report or record in order to carry out its responsibility to protect children from abuse or neglect or to protect unborn children from abuse.

(am) Notwithstanding par. (a) (intro.), a tribal agent who receives notice under sub. (3) (bm) may disclose the notice to a tribal social services department.

(b) Notwithstanding par. (a), either parent of a child may authorize the disclosure of a record for use in a child custody proceeding under s. 767.41 or 767.451 or in an adoption proceeding under s. 48.833, 48.835, 48.837 or 48.839 when the child has been the subject of a report. Any information that would identify a reporter shall be deleted before disclosure of a record under this paragraph.

(cm) Notwithstanding par. (a), an agency may disclose information from its records for use in proceedings under s. 48.25 (6), 813.122 or 813.125.
(cp) Notwithstanding par. (a), an agency may disclose a determination made before January 1, 2015, that a person has abused or neglected a child for purposes of a background check under s. 48.685, 48.686, or 50.065 only if that determination has not been reversed or modified on appeal and may disclose such a determination made on or after January 1, 2015, for those purposes only as provided in sub. (3) (c) 5r. Nothing in this paragraph prevents the disclosure of a report or record as otherwise permitted under this subsection.

NOTE: Par. (cp) is shown as amended eff. 9-30-18 by 2017 Wis. Act 59. Prior to 9-30-18 it reads:

(cp) Notwithstanding par. (a), an agency may disclose a determination made before January 1, 2015, that a person has abused or neglected a child for purposes of a background check under s. 48.685 or 50.065 only if that determination has not been reversed or modified on appeal and may disclose such a determination made on or after January 1, 2015, for those purposes only as provided in sub. (3) (c) 5r. Nothing in this paragraph prevents the disclosure of a report or record as otherwise permitted under this subsection.

(crr)

1. In this paragraph:
   a. “Incident of death or serious injury” means an incident in which a child has died or been placed in serious or critical condition, as determined by a physician, as a result of any suspected abuse or neglect that has been reported under this section or in which a child who has been placed outside the home by a court order under this chapter or ch. 938 is suspected to have committed suicide.
   b. “Incident of egregious abuse or neglect” means an incident of suspected abuse or neglect that has been reported under this section, other than an incident of death or serious injury, involving significant violence, torture, multiple victims, the use of inappropriate or cruel restraints, exposure of a child to a dangerous situation, or other similar, aggravated circumstances.

2. Notwithstanding par. (a), if an agency that receives a report under sub. (3) has reason to suspect that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, within 2 working days after determining that such an incident is suspected to have occurred the agency shall provide all of the following information to the subunit of the department responsible for statewide oversight of child abuse and neglect programs:
   a. The name of the agency and the name of a contact person at the agency.
   b. Information about the child, including the age of the child.
   c. The date of the incident and the suspected cause of the death, serious injury, or egregious abuse or neglect of the child.
   d. A brief history of any reports under sub. (3) received in which the child, a member of the child’s family, or the person suspected of the abuse or neglect was the subject and of any services under this chapter offered or provided to any of those persons.
   e. A statement of whether the child was residing in his or her home or was placed outside the home when the incident occurred.
   f. The identity of any law enforcement agency that referred the report of the incident and of any law enforcement
agency, district attorney, or other officer or agency to which
the report of the incident was referred.

3. a. Within 2 working days after receiving the information
provided under subd. 2., the subunit of the department
that received the information shall disclose to the public
the fact that the subunit has received the information;
whether the department is conducting a review of the
incident and, if so, the scope of the review and the
identities of any other agencies with which the department
is cooperating at that point in conducting the review;
whether the child was residing in the home or was placed
in an out-of-home placement at the time of the incident;
and information about the child, including the age of the
child. If the information received is about an incident of
egregious abuse or neglect, the subunit of the department
shall make the same disclosure to a citizen review panel,
as described in par. (a) 15g., and, in a county having a
population of 750,000 or more, to the Milwaukee child
welfare partnership council.
b. Within 90 days after receiving the information provided
under subd. 2., the subunit of the department that
received the information shall prepare, transmit to the
governor and to the appropriate standing committees of
the legislature under s. 13.172 (3), and make available to
the public a summary report that contains the information
specified in subd. 4. or 5., whichever is applicable. That
subunit may also include in the summary report a
summary of any actions taken by the agency in response
to the incident and of any changes in policies or practices
that have been made to address any issues raised in the
review and recommendations for any further changes in
policies, practices, rules, or statutes that may be needed
to address those issues. If the subunit does not include
those actions or changes and recommended changes in
the summary report, the subunit shall prepare, transmit to
the governor and to the appropriate standing committees
of the legislature under s. 13.172 (3), and make available
to the public a report of those actions or changes and
recommended changes within 6 months after receiving the
information provided under subd. 2. Those committees
shall review all summary reports and reports of changes
and recommended changes transmitted under this subd.
3. b., conduct public hearings on those reports no less
often than annually, and submit recommendations to the
department regarding those reports.
c. Subdivision 3. a. and b. does not preclude the subunit of
the department that prepares the summary report from
releasing to the governor, to the appropriate standing
committees of the legislature under s. 13.172 (3), or to
the public any of the information specified in subd. 4.
or 5. before the summary report is transmitted to the
governor and to those committees and made available
to the public; adding to or amending a summary report if
new information specified in subd. 4. or 5. is received after
the summary report is transmitted to the governor and
to those committees and made available to the public; or
releasing to the governor, to those committees, and to the
public any information at any time to correct any inaccurate information reported in the news media.

4. If the child was residing in his or her home when the incident of death or serious injury or the incident of egregious abuse or neglect occurred, the summary report under subd. 3. shall contain all of the following:
   a. Information about the child, including the age, gender, and race or ethnicity of the child, a description of the child's family, and, if relevant to the incident, a description of any special needs of the child.
   b. A statement of whether any services under this chapter or ch. 938 were being provided to the child, any member of the child's family, or the person suspected of the abuse or neglect, or whether any of those persons was the subject of a report being investigated under sub. (3) or of a referral to the agency for services, at the time of the incident and, if so, the date of the last contact between the agency providing those services and the person receiving those services.
   c. A summary of all involvement of the child's parents and of the person suspected of the abuse or neglect in any incident reported under sub. (3) or in receiving services under this chapter or ch. 938 in the 5 years preceding the date of the incident.
   d. A summary of any actions taken by the agency with respect to the child, any member of the child's family, and the person suspected of the abuse or neglect, including any investigation by the agency under sub. (3) of a report in which any of those persons was the subject and any referrals by the agency of any of those persons for services.
   e. The date of the incident and the suspected cause of the death, serious injury, or egregious abuse or neglect of the child, as reported by the agency under subd. 2. c.
   f. The findings on which the agency bases its reasonable suspicion that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, including any material circumstances leading to the death, serious injury, or egregious abuse or neglect of the child.
   g. A summary of any investigation that has been conducted under sub. (3) of a report in which the child, any member of the child's family, or the person suspected of the abuse or neglect was the subject and of any services that have been provided to the child and the child's family since the date of the incident.

5. If the child was placed in an out-of-home placement under this chapter or ch. 938 at the time of the incident of death or serious injury or incident of egregious abuse or neglect, the summary report under subd. 3. shall contain all of the following:
   a. Information about the child, including the age, gender, and race or ethnicity of the child and, if relevant to the incident, a description of any special needs of the child.
   b. A description of the out-of-home placement, including the basis for the decision to place the child in that placement.
   c. A description of all other persons residing in the out-of-home placement.
   d. The licensing history of the out-of-home placement, including the type of license held by the operator of the placement, the period for which the placement has been
licensed, and a summary of all violations by the licensee of any provisions of licensure under s. 48.70 (1) or rules promulgated by the department under s. 48.67 and of any other actions by the licensee or an employee of the licensee that constitute a substantial failure to protect and promote the health, safety, and welfare of a child.

e. The date of the incident and the suspected cause of the death, serious injury, or egregious abuse or neglect of the child, as reported by the agency under subd. 2. c.

f. The findings on which the agency bases its reasonable suspicion that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, including any material circumstances leading to the death, serious injury, or egregious abuse or neglect of the child.

6. A summary report or other release or disclosure of information under subd. 3. may not include any of the following:

a. Any information that would reveal the identity of the child who is the subject of the summary report, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child.

b. Any information that would reveal the identity of the person suspected of the abuse or neglect or any employee of any agency that provided services under this chapter to the child or that participated in the investigation of the incident of death or serious injury or the incident of egregious abuse or neglect.

c. Any information that would reveal the identity of a reporter or of any other person who provides information relating to the incident of death or serious injury or the incident of egregious abuse or neglect.

d. Any information the disclosure of which would not be in the best interests of the child who is the subject of the summary report, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child, as determined by the subunit of the department that received the information, after consultation with the agency that reported the incident of death or serious injury or the incident of egregious abuse or neglect, the district attorney of the county in which the incident occurred, or the court of that county, and after balancing the interest of the child, family or household member, or caregiver in avoiding the stigma that might result from disclosure against the interest of the public in obtaining that information.

e. Any information the disclosure of which is not authorized by state law or rule or federal law or regulation.

7. The subunit of the department that prepares a summary report or otherwise transmits, releases, or discloses information under subd. 3. may not transmit the summary report to the governor and to the appropriate standing committees of the legislature under s. 13.172 (3), make the summary report available to the public, or transmit, release, or disclose the information to the governor, to those standing committees, or to the public if the subunit determines that transmitting or making the summary report available or transmitting, releasing, or disclosing the information would jeopardize any of the following:

a. Any ongoing or future criminal investigation or prosecution or a defendant's right to a fair trial.
b. Any ongoing or future civil investigation or proceeding or the fairness of such a proceeding.

8. If the department fails to disclose to the governor, to the appropriate standing committees of the legislature under s. 13.172 (3), or to the public any information that the department is required to disclose under this paragraph, any person may request the department to disclose that information. If the person's request is denied, the person may petition the court to order the disclosure of that information. On receiving a petition under this subdivision, the court shall notify the department, the agency, the district attorney, the child, and the child's parent, guardian, or legal custodian of the petition. If any person notified objects to the disclosure, the court may hold a hearing to take evidence and hear argument relating to the disclosure of the information. The court shall make an in camera inspection of the information sought to be disclosed and shall order disclosure of the information, unless the court finds that any of the circumstances specified in subd. 6. or 7. apply.

9. Any person acting in good faith in providing information under subd. 2., in preparing, transmitting, or making available a summary report under subd. 3., or in otherwise transmitting, releasing, or disclosing information under subd. 3. is immune from any liability, civil or criminal, that may result by reason of those actions. For purposes of any proceeding, civil or criminal, the good faith of a person in providing information under subd. 2., in preparing, transmitting, or making available a summary report under subd. 3., or in otherwise transmitting, releasing, or disclosing information under subd. 3. shall be presumed.

(d) Notwithstanding par. (a), the department may have access to any report or record maintained by an agency under this section.

(dm) Notwithstanding par. (a), an agency may enter the content of any report or record maintained by the agency into the statewide automated child welfare information system established under s. 48.47 (7g).

(e) A person to whom a report or record is disclosed under this subsection may not further disclose it, except to the persons and for the purposes specified in this section.

(f) Any person who violates this subsection, or who permits or encourages the unauthorized dissemination or use of information contained in reports and records made under this section, may be fined not more than $1,000 or imprisoned not more than 6 months or both.

(8) Education, training and program development and coordination.

(a) The department, the county departments, and a licensed child welfare agency under contract with the department in a county having a population of 750,000 or more to the extent feasible shall conduct continuing education and training programs for staff of the department, the county departments, licensed child welfare agencies under contract with the department or a county department, law enforcement agencies, and the tribal social services departments, persons and officials required to report, the general public, and others as appropriate. The programs shall be designed to encourage reporting of child abuse and neglect and of unborn child abuse, to encourage self-reporting and voluntary acceptance of services and to improve communication, cooperation, and coordination in the identification, prevention, and treatment of child abuse and neglect and of unborn child abuse. Programs provided for staff of the department, county departments, and licensed child welfare agencies under contract with county departments or the department whose responsibilities include the investigation or treatment of child abuse or neglect shall also be designed to provide information on means of recognizing and appropriately responding to
domestic abuse, as defined in s. 49.165 (1) (a). The department, the county
departments, and a licensed child welfare agency under contract with
the department in a county having a population of 750,000 or more shall
develop public information programs about child abuse and neglect and
about unborn child abuse.
(b) The department shall to the extent feasible ensure that there are
available in the state administrative procedures, personnel trained in child
abuse and neglect and in unborn child abuse, multidisciplinary programs
and operational procedures and capabilities to deal effectively with
child abuse and neglect cases and with unborn child abuse cases. These
procedures and capabilities may include, but are not limited to, receipt,
investigation and verification of reports; determination of treatment or
ameliorative social services; or referral to the appropriate court.
(c) In meeting its responsibilities under par. (a) or (b), the department, a
county department or a licensed child welfare agency under contract with
the department in a county having a population of 750,000 or more may
contract with any public or private organization which meets the standards
set by the department. In entering into the contracts the department, county
department or licensed child welfare agency shall give priority to parental
organizations combating child abuse and neglect or unborn child abuse.
(d)
1. Each agency staff member and supervisor whose responsibilities
include investigation or treatment of child abuse and neglect or
of unborn child abuse shall successfully complete training in child
abuse and neglect protective services and in unborn child abuse
protective services approved by the department. The training shall
include information on means of recognizing and appropriately
responding to domestic abuse, as defined in s. 49.165 (1) (a).
The department shall monitor compliance with this subdivision
according to rules promulgated by the department.
2. Each year the department shall make available training programs
that permit intake workers and agency staff members and
supervisors to satisfy the requirements under subd. 1. and s. 48.06
(1) (am) 3. and (2) (c).
Cross-reference: See also ch. DCF 43, Wis. adm. code.

(9) Quarterly reports.

(a) Within 30 days after the end of each calendar quarter, the department
shall prepare and transmit to the governor, and to the appropriate standing
committees of the legislature under s. 13.172 (3), a summary report of all
reports received by the department under sub. (3) (c) 8. during the previous
calendar quarter of abuse, as defined in s. 48.02 (1) (b) to (f), of a child who
is placed in the home of a foster parent or relative other than a parent or
in a group home, shelter care facility, or residential care center for children
and youth. For each report included in the summary report, the department
shall provide the number of incidents of abuse reported; the dates of those
incidents; the county in which those incidents occurred; the age or age
group of the child who is the subject of the report; the type of placement
in which the child was placed at the time of the incident; whether it was
determined under sub. (3) (c) 4. that abuse occurred; and, if so, the nature
of the relationship between the child and the person who abused the child,
but may not provide any of the information specified in sub. (7) (cr) 6. or
any information that would jeopardize an investigation, prosecution, or
proceeding described in sub. (7) (cr) 7. a. or b.
(b) In every 4th summary report prepared and transmitted under par. (a),
the department shall provide for all reports of abuse, as defined in s. 48.02
(1) (b) to (f), of a child who is placed as described in par. (a) received by
the department under sub. (3) (c) 8. during the previous year information
indicating whether the abuse resulted in any injury, disease, or pregnancy that is known to be directly caused by the abuse, but may not provide any of the information specified in sub. (7) (cr) 6. or any information that would jeopardize an investigation, prosecution, or proceeding described in sub. (7) (cr) 7. a. or b. A county department reporting under sub. (3) (c) 8. shall make an active effort to obtain that information and report the information to the department under sub. (3) (c) 8.

(c) The appropriate standing committees of the legislature shall review all summary reports transmitted under par. (a), conduct public hearings on those summary reports no less often than annually, and submit recommendations to the department regarding those summary reports. The department shall also make those summary reports available to the public.

(10) Current list of tribal agents. The department shall annually provide to each agency described in sub. (3) (bm) (intro.) a current list of all tribal agents in the state.

(11) Investigations involving children with disabilities.

(a) In this subsection, “child with a disability” means a child with a disability, as defined in s. 106.50 (1m) (g), including a child with a disability, as defined in s. 115.76 (5) (a).

(b) The department shall develop and implement a plan for identifying and addressing areas in which there is a need for improvement in the practices used to investigate reports of suspected or threatened abuse or neglect of a child with a disability. In developing that plan the department shall use an open public participation process that includes the input of representatives of law enforcement agencies, the department of health services, and other stakeholders that the department considers appropriate. On completion of the plan, the department shall post the plan on its Internet site and distribute copies of the plan to all agencies that conduct abuse and neglect investigations in this state. At a minimum, the department shall consider including in the plan all of the following:

1. A requirement that each agency, on receipt of a report of suspected or threatened abuse or neglect, ask the reporter whether the child who is the subject of the report is a child with a disability.
2. Procedures for agencies to use to identify and address any specific categories of disabilities that a child with a disability reported to the agency may have.
3. Procedures to ensure that each agency is in compliance with Part A of Title II of the Americans with Disabilities Act, 42 USC 12131 to 12134. Those procedures shall include reasonable modifications to the rules, policies, and practices of the agency, the removal of architectural, communication, and transportation barriers, and the provision of auxiliary aids and services as necessary to enable a person with a disability to receive the services or participate in the programs or activities provided by the agency.
4. Interviewing strategies tailored to the investigation of abuse or neglect reports involving children with disabilities that include forensic interviewing strategies for interviewing those children, including children with communication issues.
5. Information on how to access collateral information regarding a child with a disability.
6. Information on how to access specialized follow-up services for children with disabilities.
8. Plans for the training of agency staff in the implementation of the plan.

(c) The department shall take action on the plan under par. (b) by January 1, 2017. Each agency that conducts abuse and neglect investigations in this state shall adopt the plan by July 1, 2017, and shall provide a copy of the plan...
to all law enforcement agencies within the jurisdiction of the agency as well as to any other person on request.
§ 14-3-205. Child abuse or neglect; persons required to report.

(a) Any person who knows or has reasonable cause to believe or suspect that a child has been abused or neglected or who observes any child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, shall immediately report it to the child protective agency or local law enforcement agency or cause a report to be made. The fact a child, who is at least sixteen (16) years of age, is homeless as defined in W.S. 14-1-102(d) shall not, in and of itself, constitute a sufficient basis for reporting neglect.

(b) If a person reporting child abuse or neglect is a member of the staff of a medical or other public or private institution, school, facility or agency, he shall notify the person in charge or his designated agent as soon as possible, who is thereupon also responsible to make the report or cause the report to be made. Nothing in this subsection is intended to relieve individuals of their obligation to report on their own behalf unless a report has already been made or will be made.

(c) Any employer, public or private, who discharges, suspends, disciplines or penalizes an employee solely for making a report of neglect or abuse under W.S. 14-3-201 through 14-3-215 is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

(d) Any person who knowingly and intentionally makes a false report of child abuse or neglect, or who encourages or coerces another person to make a false report of child abuse or neglect, is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

§ 14-3-206. Child abuse or neglect; written report; statewide reporting center; documentation; costs and admissibility thereof.

(a) Reports of child abuse or neglect or of suspected child abuse or neglect made to the local child protective agency or local law enforcement agency shall be:
   (i) Conveyed immediately by the agency receiving the report to the appropriate local child protective agency or local law enforcement agency and, if the person responsible for the welfare of a child is a member of the armed forces or if the child is enrolled in the defense enrollment eligibility reporting system of the United States department of defense, to the state judge advocate for the Wyoming military department. The agencies shall continue cooperating and coordinating with each other during the assessment or investigation; and
   (ii) Followed by a written report by the receiving agency confirming or not confirming the facts reported. The report shall provide to law enforcement, the local child protective agency and the state judge advocate for the Wyoming military department when appropriate, the following, to the extent available:
      (A) The name, age and address of the child;
      (B) The name and address of any person responsible for the child's care;
      (C) The nature and extent of the child's condition;
      (D) The basis of the reporter's knowledge;
      (E) The names and conditions of any other children relevant to the report;
      (F) Any evidence of previous injuries to the child;
      (G) Photographs, videos and x-rays with the identification of the person who created the evidence and the date the evidence was
(b) The state agency may establish and maintain a statewide reporting center to receive reports of child abuse or neglect on a twenty four (24) hour, seven (7) day week, toll free telephone number. Upon establishment of the service, all reports of child abuse or neglect may be made to the center which shall transfer the reports to the appropriate local child protective agency.

(c) Any person investigating, examining or treating suspected child abuse or neglect may document evidence of child abuse or neglect to the extent allowed by law by having photographs taken or causing x-rays to be made of the areas of trauma visible on a child who is the subject of the report or who is subject to a report. The reasonable cost of the photographs or x-rays shall be reimbursed by the appropriate local child protective agency. All photographs, x-rays or copies thereof shall be sent to the local child protective agency, admissible as evidence in any civil proceeding relating to child abuse or neglect, and shall state:
   (i) The name of the subject;
   (ii) The name, address and telephone number of the person taking the photographs or x rays; and
   (iii) The date and place they were taken.

§ 14-3-207. Abuse or neglect as suspected cause of death; coroner’s investigation.

Any person who knows or has reasonable cause to suspect that a child has died as a result of child abuse or neglect shall report to the appropriate coroner. The coroner shall investigate the report and submit his findings in writing to the law enforcement agency, the appropriate district attorney and the local child protective agency.

§ 14-3-209. Immunity from liability.

Any person, official, institution or agency participating in good faith in any act required or permitted by W.S. 14-3-201 through 14-3-215 is immune from any civil or criminal liability that might otherwise result by reason of the action. For the purpose of any civil or criminal proceeding, the good faith of any person, official or institution participating in any act permitted or required by W.S. 14-3-201 through 14-3-215 shall be presumed.

§ 14-3-210. Admissibility of evidence constituting privileged communications.

(a) Evidence regarding a child in any judicial proceeding resulting from a report made pursuant to W.S. 14-3-201 through 14-3-215 shall not be excluded on the ground it constitutes a privileged communication:
   (i) Between husband and wife;
   (ii) Claimed under any provision of law other than W.S. 1-12-101(a)(i) and (ii); or
   (iii) Claimed pursuant to W.S. 1-12-116.
§ 14-3-214. Confidentiality of records; penalties; access to information; attendance of school officials at interviews; access to central registry records pertaining to child protection cases.


(a) All records concerning reports and investigations of child abuse or neglect are confidential except as provided by W.S. 14-3-201 through 14-3-215. Any person who willfully violates this subsection is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisoned in the county jail not more than six (6) months, or both.

(b) Except as provided in subsection (h) of this section, applications for access to records concerning child abuse or neglect contained in the state agency or local child protective agency shall be made in the manner and form prescribed by the state agency. Upon appropriate application, the state agency shall give access to any of the following persons or agencies for purposes directly related with the administration of W.S. 14-3-201 through 14-3-216:

(i) A local child protective agency;

(ii) A law enforcement agency, guardian ad litem, child protection team or the attorney representing the subject of the report;

(iii) A physician or surgeon who is treating an abused or neglected child, the child's family or a child he reasonably suspects may have been abused or neglected;

(iv) A person legally authorized to place a child in protective temporary custody when information in the report or record is required to determine whether to place the child in temporary protective custody;

(v) A person responsible for the welfare of the child;

(vi) A court or grand jury upon a showing that access to the records is necessary for the determination of an issue, in which case access shall be limited to in camera inspection unless the court finds public disclosure is necessary;

(vii) Court personnel who are investigating reported incidents of child abuse or neglect;

(viii) An education or mental health professional serving the child, if the state agency determines the information is necessary to provide appropriate educational or therapeutic interventions.

(c) A physician or person in charge of an institution, school, facility or agency making the report shall receive, upon written application to the state agency, a summary of the records concerning the subject of the report.

(d) Any person, agency or institution given access to information concerning the subject of the report shall not divulge or make public any information except as required for court proceedings.

(e) Nothing in W.S. 14-3-201 through 14-3-215 prohibits the attendance of any one of the following at an interview conducted on school property by law enforcement or child protective agency personnel of a child suspected to be abused or neglected provided the person is not a subject of the allegation:

(i) The principal of the child's school or his designee; or

(ii) A child's teacher or, counselor, or specialist employed by the school or school district and assigned the duties of monitoring, reviewing or assisting in the child's welfare in cases of suspected child abuse or neglect.

(f) Upon appropriate application, the state agency shall provide to any employer or entity whose employees or volunteers may have unsupervised access to children in the course of their employment or volunteer service, for employee or volunteer...
screening purposes, a summary of central registry records maintained under state agency rules since December 31, 1986, for purposes of screening employees or volunteers. The state agency shall provide the results of the records check to the applicant by certified mail if the records check confirms the existence of a report "under investigation" or a "substantiated" finding of abuse or neglect. Otherwise, the state agency shall provide the results of the records check to the applicant in accordance with agency rules and by United States mail. The written results shall confirm that there is a report "under investigation", a "substantiated" finding of abuse or neglect on the central registry naming the individual or confirm that no record exists. When the individual is identified on the registry as a "substantiated" perpetrator of abuse or neglect, the report to the applicant shall contain information with respect to the date of the finding, specific type of abuse or neglect, a copy of the perpetrator's voluntary statement and whether an appeal is pending. The applicant, or an agent on behalf of the applicant, shall submit a fee of ten dollars ($10.00) and proof satisfactory to the state agency that the prospective or current employee or volunteer whose records are being checked consents to the release of the information to the applicant. The applicant shall use the information received only for purposes of screening prospective or current employees and volunteers who may, through their employment or volunteer services, have unsupervised access to minors. Applicants, their employees or other agents shall not otherwise divulge or make public any information received under this subsection. The state agency shall notify any applicant receiving information under this subsection of any subsequent reclassification of the information pursuant to W.S. 14-3-213(e). The state agency shall screen all prospective agency employees in conformity with the procedure provided under this subsection.

(g) There is created a program administration account to be known as the "child and vulnerable adult abuse registry account". All fees collected under subsection (f) of this section shall be credited to this account.

(h) No information, including recorded interviews of the child, shall be disclosed to any person in any civil proceeding not related to an abuse or neglect case brought under this article except upon order of the court which shall determine if good cause exists to disclose the information. Any protective order granting disclosure shall include appropriate protections against further dissemination in any form. The court may conduct an in camera review of a recorded interview prior to issuing a protective order and may impose such conditions as may be appropriate under the circumstances of the proceeding to prevent further dissemination of the recorded interview.

(j) Any person may request a central registry screen and summary report on themselves as provided by subsection (f) of this section upon payment of the fee required by subsection (f) of this section.

§ 14-3-216. Other laws not superseded.

No laws of this state are superseded by the provisions of W.S. 14-3-201 through 14-3-216.