



IN PARTNERSHIP WITH



American Professional Society on the Abuse of Children

CENTER FOR CHILD POLICY

REPORTING CHILD MALTREATMENT

DIGEST OF STATE AND TERRITORY LAWS - AUSTRALIA

CURRENT THROUGH APRIL 2018

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**Australian
Capital
Territory**

[Children and
Young People
Act 2008 \(ACT\).
s.535. \(Austral.\) –
Definitions – Act.](#)

Children and Young People Act 2008 — Sect. 354. Voluntary reporting of abuse and neglect.

Children and Young People Act 2008 (ACT). s.354. (Austral.)

- (1) This section applies if a person believes or suspects that a child or young person—
- (a) is being abused; or
 - (b) is being neglected; or
 - (c) is at risk of abuse or neglect.

- (2) The person may report (a **voluntary report**) the belief or suspicion, and the reasons for the belief or suspicion, to the director-general.

Note 1 A person who gives information honestly and without recklessness under this section does not breach professional ethics and is protected from civil liability (see s 874).

Note 2 Giving false or misleading information to the director-general is an offence (see Criminal Code, s 338).

Children and Young People Act 2008 — Sect. 355. Offence - false or misleading voluntary report.

Children and Young People Act 2008 (ACT). s.355. (Austral.)

A person commits an offence if—

- (a) the person makes a voluntary report; and
- (b) the report contains information or allegations that are false or misleading in a material particular; and
- (c) the person knows that the information or allegations—
 - (i) are false or misleading in a material particular; or
 - (ii) omit anything without which the information or allegations are false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Children and Young People Act 2008 — Sect. 356. Offence - mandatory reporting of abuse.

Children and Young People Act 2008 (ACT). s.356. (Austral.)

(1) A person commits an offence if—

- (a) the person is a mandated reporter; and
- (b) the person is an adult; and
- (c) the person believes on reasonable grounds that a child or young person has experienced, or is experiencing—
 - (i) sexual abuse; or
 - (ii) non-accidental physical injury; and
- (d) the person's reasons for the belief arise from information obtained by the person during the course of, or because of, the person's work (whether paid or unpaid); and
- (e) the person does not, as soon as practicable after forming the belief, report (a **mandatory report**) to the director-general—
 - (i) the child's or young person's name or description; and
 - (ii) the reasons for the person's belief.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Note 1 A person who gives information honestly and without recklessness under this section does not breach professional ethics and is protected from civil liability (see s 874).

Note 2 Giving false or misleading information to the director-general is an offence (see Criminal Code, s 338).

(2) In this section:

mandated reporter—each of the following people is a **mandated reporter**:

- (a) a doctor;
- (b) a dentist;
- (c) a nurse;
- (d) an enrolled nurse;
- (e) a midwife;

Note **Doctor, dentist, nurse, enrolled nurse** and **midwife** are defined in the [Legislation Act](#), dict, pt 1.

- (f) a psychologist;
- (g) a teacher at a school;
- (h) a person authorised to inspect education programs, materials or other records used for home education of a child or young person under the [Education Act 2004](#);
- (i) a police officer;
- (j) a person employed to counsel children or young people at a school;
- (k) a person caring for a child at a childcare centre;
- (l) a person coordinating or monitoring home-based care for a family day care scheme proprietor;
- (m) a public servant who, in the course of employment as a public servant, works with, or provides services personally to, children and young people or families;
- (n) the public advocate;
- (o) an official visitor;
- (p) a person who, in the course of the person's employment, has contact with or provides services to children, young people and their families and is prescribed by regulation.

person caring for a child at a childcare centre includes a childcare assistant or aide caring for a child at the childcare centre if the assistant or aide is in paid employment at the childcare centre, but does not include anyone caring for a child as an unpaid volunteer.

psychologist means a person registered under the [Health Practitioner Regulation National Law \(ACT\)](#) to practise in the psychology profession (other than as a student).

teacher, at a school, includes a teacher's assistant or aide if the assistant or aide is in paid employment at the school.

Children and Young People Act 2008 — Sect. 357. Mandatory reporting - exceptions.

Children and Young People Act 2008 (ACT). s.357. (Austral.)

(1) Section 356 does not apply to a person if the person believes on reasonable grounds that—

- (a) someone else has made a report to the director-general about the same child or young person in relation to the same abuse or non-accidental physical injury; and
- (b) the other person has reported the same reasons for their belief as the person has for their belief.

(2) Section 356 (1) (c) (ii) does not apply to a person if the person believes on

reasonable grounds that—

- (a) the child or young person (the ***injured person***) has experienced, or is experiencing, non-accidental physical injury caused by another child or young person; and
- (b) a person with parental responsibility for the injured person is willing and able to protect the injured person from further injury.

Example—par (b)

A child is injured during a fight at school. The child's teacher believes that a person with parental responsibility for the child is willing and able to protect the child from further injury because the person comes to the school to discuss strategies for preventing further fights.

Note - An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

Children and Young People Act 2008 — Sect. 358. Offence - false or misleading mandatory report.

Children and Young People Act 2008 (ACT). s.358. (Austral.)

A person commits an offence if—

- (a) the person makes a mandatory report; and
- (b) the report contains information or allegations that are false or misleading in a material particular; and
- (c) the person knows that the information or allegations—
 - (i) are false or misleading in a material particular; or
 - (ii) omit anything without which the information or allegations are false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Children and Young People Act 2008 — Sect. 359. Reports made to public advocate.

Children and Young People Act 2008 (ACT). s.359. (Austral.)

(1) This section applies if—

- (a) a person believes or suspects that a child or young person—
 - (i) is being abused; or
 - (ii) is being neglected; or
 - (iii) is at risk of abuse or neglect; and
- (b) the person reports the belief or suspicion, and the reasons for the belief or suspicion, to the public advocate.

(2) The public advocate must give the director-general a copy of the report.

(3) The report is taken to be a voluntary report.

(4) The person who made the report to the public advocate is taken to have made a voluntary report.

Note 1 - There are limits on how the report may be used in evidence (see pt 25.5).

Note 2 - Giving false or misleading information to the public advocate is an offence (see Criminal Code, s 338).

Children and Young People Act 2008 — Sect. 360. Director-general to act on child concern report.

Children and Young People Act 2008 (ACT). s.360. (Austral.)

(1) This section applies if the director-general receives a child concern report about a child or young person.

(2) The director-general must—
(a) consider the report; and
(b) carry out an initial assessment of the matters raised in the report to decide if the child or young person may be in need of care and protection; and
(c) take the action that the director-general considers appropriate in relation to the initial assessment.

(3) To carry out an initial assessment of the matters raised in the report, the director-general may take reasonable steps to obtain further information about the matters.

Example—reasonable steps
a home visit to interview family members

Note - An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

(4) Without limiting subsection (2) (c), the director-general may do any of the following:

(a) give advice to the person who made the child concern report about appropriate assistance that the person may consider to protect the child or young person;

Example contact details for support services

(b) seek information from an information sharing entity to decide the most appropriate response to the child concern report;

(c) refer a matter raised in the report to the chief police officer if the director-general suspects on reasonable grounds that it relates to a criminal offence;

(d) refer the matters raised in the report to a government or community-based service for advice and support services for the child or young person and, if appropriate, the child's or young person's family members;

(e) provide or arrange support services for the child or young person and, if appropriate, the child's or young person's family members;

(f) arrange a family group conference in relation to the child or young person;

Note - Family group conferences are dealt with in ch 3 and ch 12.

(g) assist a family member or a significant person to care for the child or young person;

Note - Care and protection orders are dealt with in ch 14.

(h) take no action.

(5) However, if the director-general suspects on reasonable grounds that the child or young person may be in need of care and protection the director-general must decide that the child concern report is a child protection report.

(6) In this section:

information sharing entity—see section 859.

Children and Young People Act 2008 — Sect. 361. Director-general to act on child protection report.

Children and Young People Act 2008 (ACT). s.361. (Austral.)

(1) This section applies if the director-general decides that a child concern report is a child protection report.

(2) The director-general must take the action that the director-general considers appropriate in relation to the report.

(3) Without limiting subsection (2), the director-general may do any of the following:

- (a) seek information from anyone to decide the most appropriate response to the report;
- (b) give advice to the person who made the report about appropriate assistance that the person may consider to protect the child or young person;

Example—par (b)

contact details for support services

Note - An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (c) refer a matter raised in the report to the chief police officer if the director-general suspects on reasonable grounds that it relates to a criminal offence;

- (d) refer the matters raised in the report to a government or community-based service for advice and support services for the child or young person and, if appropriate, the child's or young person's family members;

- (e) provide or arrange support services for the child or young person and, if appropriate, the child's or young person's family members;

- (f) arrange a family group conference in relation to the child or young person;

Note - Family group conferences are dealt with in ch 3 and ch 12.

- (g) assist a family member or a significant person to care for the child or young person;

- (h) enter into a voluntary care agreement for the child or young person;

- (i) take no action.

(4) This section does not affect the director-general's capacity to—

- (a) carry out a care and protection appraisal of the child or young person under section 368 (Care and protection appraisal—only with agreement or appraisal order); or

- (b) take action under section 371 (Visual examination etc without agreement); or

- (c) take emergency action in relation to the child or young person under section 406 (Emergency action—criteria for taking emergency action); or

- (d) apply to the Childrens Court for a care and protection order under section 424 (Care and protection order—application by director-general).

Children and Young People Act 2008 — Sect. 362. Prenatal reporting - anticipated abuse and neglect.

Children and Young People Act 2008 (ACT). s.362. (Austral.)

(1) This section applies if, during a pregnancy, a person believes or suspects that a child who may be born as a result of the pregnancy may be in need of care and protection.

(2) The person may report (a **prenatal report**) the belief or suspicion, and the reasons for the belief or suspicion, to the director-general.

(3) The director-general may, with the consent of the pregnant woman, take the action the director-general considers appropriate in relation to the report.

(4) Without limiting subsection (3), the director-general may do any of the following with the consent of the pregnant woman:

- (a) provide a voluntary assessment of whether the child is likely to be in need of care and protection after the child is born;

- (b) provide or arrange voluntary support services for the pregnant woman, and any family member who may be involved in caring for the child;
- (c) refer the matters raised in the report to a government- or community-based service for advice and support services for the pregnant woman and any family member who may be involved in caring for the child.

(5) The director-general may also, without the consent of the pregnant woman, give advice to the person who made the report about appropriate assistance for the pregnant woman that the person may consider.

Example

contact details for support services

Note - An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

(6) The director-general may also ask the pregnant woman to consent to the director-general doing either or both of the following:

- (a) giving prenatal information to a prenatal information sharing entity;
- (b) asking a prenatal information sharing entity for prenatal information.

(7) If the pregnant woman does not consent under subsection (6), the director-general may give the prenatal information to the prenatal information sharing entity, or ask the prenatal information sharing entity for the prenatal information, only if the director-general suspects on reasonable grounds that the child may be in need of care and protection after the child is born.

(8) The director-general is not required to act in relation to a report under this section.

(9) The director-general must ensure, as far as practicable, that any action taken because of this section is appropriate and consistent with the pregnant woman's human rights.

Note 1 - A person who gives information honestly and without recklessness under this section does not breach professional ethics etc and is protected from civil liability (see s 874).

Note 2 - Giving false or misleading information to the director-general is an offence (see Criminal Code, s 338).

(10) In this section:

prenatal information means information that is relevant to the safety, wellbeing and development of a child after the child is born.

Examples—information relevant to safety, wellbeing and development of child

1 information needed to assess any likely risks to the child after birth

2 information needed to develop voluntary strategies to engage the pregnant woman before the birth

3 information needed to develop intervention plans to be implemented at birth that are proportionate and appropriate to the level of risk

4 information needed to decide whether a care and protection application should be made for the child at birth

5 information needed to assess the father's parenting capacity, including the father's ability and willingness to protect the child after birth

6 information needed to engage other family members to be voluntarily involved in protecting the child after birth

Note - An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

prenatal information sharing entity means any of the following:

- (a) a person who would be involved in the care of the child after the child's birth;
- (b) a Minister;
- (c) a health facility;

- (d) a police officer or a member of a police service or force of a State;
- (e) an entity established under a law of a State or the Commonwealth;
- (f) the holder of a position established under a law of a State or the Commonwealth;
- (g) any of the following entities that would, after the child's birth, provide a service to, or have contact with, the child or a person who would be involved in the care of the child:
 - (i) an administrative unit;
 - (ii) a territory authority (other than the legal aid commission);
 - (iii) a territory instrumentality;
 - (iv) a public employee (other than a judge or magistrate);
 - (v) a community-based service.

Children and Young People Act 2008 — Sect. 363. Offense - false or misleading prenatal report.

Children and Young People Act 2008 (ACT). s.363. (Austral.)

A person commits an offence if—

- (a) the person makes a prenatal report; and
- (b) the report contains information or allegations that are false or misleading in a material particular; and
- (c) the person knows that the information or allegations—
 - (i) are false or misleading in a material particular; or
 - (ii) omit anything without which the information or allegations are false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Children and Young People Act 2008 — Sect. 364. How prenatal reports may be used in evidence.

Children and Young People Act 2008 (ACT). s.364. (Austral.)

(1) This section applies if a person honestly and without recklessness makes a prenatal report.

(2) The report, or evidence of the contents of the report, is admissible in evidence in a proceeding in a court only if—

- (a) the report or evidence is given to the court by the person who made the report; or
- (b) the proceeding is before the Childrens Court, under chapter 11 (Care and protection—reporting, investigating and appraising abuse and neglect) or chapter 14 (Care and protection—care and protection orders), in relation to the child born as a result of the pregnancy that is the subject of the report; or
- (c) the proceeding is before a court hearing an appeal from a decision of the Childrens Court in a proceeding mentioned in paragraph (b); or
- (d) the proceeding is about a charge or allegation made in a proceeding against a person in relation to the person's exercising a function under this Act.

Children and Young People Act 2008 — Sect. 365. Prenatal reporting information is sensitive information.

Children and Young People Act 2008 (ACT). s.365. (Austral.)

(1) For the definition of **sensitive information** in section 845, prenatal report information is also sensitive information.

(2) In this section:

prenatal report information means information—

- (a) in a prenatal report; or
- (b) received by the director-general under section 362; or
- (c) that would allow the information mentioned in paragraph (a) or (b) to be worked out; or
- (d) that identifies a person as a person who gave the information mentioned in paragraph (a) or (b); or
- (e) that would allow a person's identity as a person who gave the information mentioned in paragraph (a) or (b) to be worked out.

Children and Young People Act 2008 — Sect. 716. Court not bound by rules of evidence.

Children and Young People Act 2008 (ACT). s.716. (Austral.)

- (1) In a proceeding under the care and protection chapters, the court—
 - (a) is not bound by the rules of evidence; and
 - (b) may inform itself of a matter in any way that it considers appropriate.
- (2) Also, if the court is making, extending, amending or revoking an order under the care and protection chapters, the court may—
 - (a) admit and act on hearsay evidence; and
 - (b) take submissions from someone who is not a party.

Children and Young People Act 2008 — Sect. 857. Certain identifying information not to be given.

Children and Young People Act 2008 (ACT). s.857. (Austral.)

Information must not be given to anyone under this part if it is information that—

- (a) identifies a person as a person who made—
 - (i) a child concern report; or
 - (ii) a prenatal report; or
 - (iii) a confidential report; or
 - (iv) an interstate care and protection report; or
 - (v) a notification under the [Children's Services Act 1986](#), section 103 (as in force at any time); or
 - (vi) a report under the [Children and Young People Act 1999](#), section 157A, section 158 or section 159 (as in force at any time); or
- (b) would allow a person's identity as a person who made a report or notification mentioned in paragraph (a) to be worked out.

Children and Young People Act 2008 — Sect. 868. How child concern reports may be used in evidence.

Children and Young People Act 2008 (ACT). s.868. (Austral.)

- (1) This section applies if a person honestly and without recklessness makes a child concern report.
- (2) The report, or evidence of the contents of the report, is admissible in evidence in a proceeding in a court or tribunal only if—
 - (a) the report or evidence is given to the court or tribunal by the person who made the report; or
 - (b) the proceeding is a proceeding under the care and protection chapters in relation to the child or young person who is the subject of the report; or
 - (c) the proceeding is before a court hearing an appeal from a decision of the Childrens Court in a proceeding mentioned in paragraph (b); or
 - (d) the proceeding is about a charge or allegation made in a proceeding

against a person in relation to the person's exercising a function under this Act.

(3) Before admitting a report, or evidence of a report, under this section, the court or tribunal must give the director-general the opportunity to be heard.

Note - For admissibility of a prenatal report, see s 364.

Children and Young People Act 2008 — Sect. 874. Protection of people giving certain information.

Children and Young People Act 2008 (ACT). s.874. (Austral.)

(1) If a person gives information mentioned in subsection (2) honestly and without recklessness—

(a) giving the information is not a breach of—

(i) confidence; or

(ii) professional etiquette or ethics; or

(iii) a rule of professional conduct; and (b) the person does not incur civil or criminal liability only because of giving the information.

(2) Subsection (1) applies to information given by—

(a) a relevant person to the director-general in response to a request made by the director-general under section 25 (Director-general may ask for assistance, etc); and

(b) a person to the official visitor under the [Official Visitor Act 2012](#), section 22 (Complaints to official visitors); and

(c) a person to a director-general for a report under the [Court Procedures Act 2004](#), section 74D (Court may order report about young person); and

(d) a health practitioner to the director-general in a report of assessment made by the health practitioner under section 161 (3) (Health assessment); and

(e) a relevant director-general to the director-general in a report under section 186 (Health reports); and

(f) a person in a report to the director-general under section 193 (Mandatory reporting of threats to security etc at detention place); and

(g) a person to the director-general under section 354 (Voluntary reporting of abuse and neglect); and

(h) a person to the director-general under section 356 (Offence—mandatory reporting of abuse); and

(i) a person to the public advocate under section 359 (Reports made to public advocate); and

(j) a person to the director-general under section 360 (4) (a) (Director-general to act on child concern report); and

(k) a person to the director-general under section 361 (3) (a) (Director-general action on child protection report); and

(l) a person to the director-general under section 362 (Prenatal reporting—anticipated abuse and neglect); and

(m) a person in a report to the director-general under section 362 (Prenatal reporting—anticipated abuse and neglect); and

(n) a person to a police officer under section 680 (1) (d) (Police powers); and

(o) an out-of-home carer, or approved kinship and foster care organisation, to someone under section 854 (Out-of-home carer and approved kinship and foster care organisation—giving information necessary for responsibilities); and

Note - **Out-of-home carer**—see s 508. **Approved kinship and foster care organisation**—see s 502.

(p) an information sharing entity to the director-general under section 861 (Information sharing entity—giving safety and wellbeing information to

director-general) or section 862 (Director-general—asking information sharing entity for safety and wellbeing information); and
(q) a member of a care team to another member of the care team under section 863 (Care teams—sharing safety and wellbeing information); and
(r) a person to the director-general under section 876 (Confidential report of contravention of Act); and
(s) an ACT child welfare service to the public advocate under section 879 (ACT child welfare services must assist public advocate).

Note - The director-general is protected from civil liability for giving information by s 878 and an official visitor is protected under the [Official Visitor Act 2012](#), s 24.

Children and Young People Act 2008 — Sect. 875. Interaction with other laws.

Children and Young People Act 2008 (ACT). s.875. (Austral.)

(1) This chapter does not limit a power or obligation under another law to give relevant information to the director-general.

(2) This chapter applies to information despite any other law that would otherwise prohibit or restrict the giving of the information.

Examples—other laws

- [Evidence Act 2011](#)
- [Health Records \(Privacy and Access\) Act 1997](#)
- [Information Privacy Act 2014](#)
- [Privacy Act 1988](#) (Cwlth)
- [Public Sector Management Act 1994](#)
- [Working with Vulnerable People \(Background Checking\) Act 2011](#)

Note - An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

New South Wales

[Children and Young Persons \(Care and Protection\) Act 1998 \(NSW\). – s.3. \(Austral.\) – Definitions.](#)

Children and Young Persons (Care and Protection) Act 1998 — Sect. 23. Child or young person at risk of significant harm.

Child and Young Persons (Care and Protection) Act 1998 (NSW). S.23. (Austral.)

(1) For the purposes of this Part and Part 3, a child or young person is “**at risk of significant harm**” if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence, to a significant extent, of any one or more of the following circumstances:

(a) the child’s or young person’s basic physical or psychological needs are not being met or are at risk of not being met,

(b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,

(b1) in the case of a child or young person who is required to attend school in accordance with the *Education Act 1990* --the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act,

(c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,

(d) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm,

(e) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm,

(f) the child was the subject of a pre-natal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

Note : Physical or sexual abuse may include an assault and can exist despite the fact that consent has been given.

(2) Any such circumstances may relate to a single act or omission or to a series of acts or omissions.

Note : See also sections 154 (2) (a) and 156A (3) for other circumstances in which a child or young person is taken to be at risk of significant harm.

Children and Young Persons (Care and Protection) Act 1998 — Sect. 24. Report concerning child or young person at risk of significant harm.

Child and Young Persons (Care and Protection) Act 1998 (NSW). S.24. (Austral.)

A person who has reasonable grounds to suspect that a child or young person is, or that a class of children or young persons are, at risk of significant harm may make a report to the Secretary.

Children and Young Persons (Care and Protection) Act 1998 — Sect. 25. Pre-natal reports.

Child and Young Persons (Care and Protection) Act 1998 (NSW). S.25. (Austral.)

A person who has reasonable grounds to suspect, before the birth of a child, that the child may be at risk of significant harm after his or her birth may make a report to the Secretary.

The intentions of this section are:

(a) to allow assistance and support to be provided to an expectant parent to reduce the likelihood that the parent’s child, when born, will need to be placed in out-of-home

care, and
(b) to provide early information that a child who is not yet born may be at risk of significant harm subsequent to his or her birth, and
(c) in conjunction with section 23 (f) and section 27, to provide for mandatory reporting if there are reasonable grounds to believe that the child is at risk of significant harm subsequent to his or her birth.

**Children and Young Persons (Care and Protection) Act 1998 — Sect. 26.
Anonymity.**

Child and Young Persons (Care and Protection) Act 1998 (NSW). S.26. (Austral.)

A report under section 24 or 25 may be made anonymously.

**Children and Young Persons (Care and Protection) Act 1998 — Sect. 27.
Mandatory reporting.**

Child and Young Persons (Care and Protection) Act 1998 (NSW). S.27. (Austral.)

(1) This section applies to:

- (a) a person who, in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children, and
- (b) a person who holds a management position in an organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children.

(2) If:

- (a) a person to whom this section applies has reasonable grounds to suspect that a child is at risk of significant harm, and
- (b) those grounds arise during the course of or from the person's work, it is the duty of the person to report, as soon as practicable, to the Secretary the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

(3) A person to whom this section applies satisfies his or her obligations under subsection (2) in relation to two or more children that constitute a particular class of children if the person reports that class of children to the Secretary together with:

- (a) a description that is sufficient to identify all the children who constitute the class, and
- (b) the grounds for suspecting that the children of that class are at risk of significant harm.

**Children and Young Persons (Care and Protection) Act 1998 — Sect. 27A.
Alternative reporting arrangements.**

Child and Young Persons (Care and Protection) Act 1998 (NSW). S.27A. (Austral.)

(1) In this section:

"assessment officer", in relation to a [relevant agency](#), means a person appointed or designated by the [head](#) of the agency as an [assessment officer](#) of the agency for the purposes of an arrangement under this section.

"head" of a [relevant agency](#) means:

- (a) (subject to paragraph (b)) the person who is the chief executive officer, or who exercises the functions of chief executive officer, of the agency, or
- (b) the person prescribed by the regulations.

"relevant agency" means any of the following:

- (a) the NSW Health Service (including the Health Executive Service referred to in section 121B of the [Health Services Act 1997](#)),
- (b) the NSW Police Force,
- (c) the Teaching Service,
- (d) the Ministry of Health,
- (e) the [Department](#) of Education,
- (f) the TAFE Commission,
- (g) the [Department](#) of Family and Community Services,
- (h) any other agency or organisation prescribed by the regulations for the purposes of this section.

(2) The [Secretary](#) and the [head](#) of a [relevant agency](#) may enter into an arrangement under which a person ("**the staff member**") who:

- (a) is employed in or engaged by the [relevant agency](#), and
 - (b) is a person to whom section 27 applies,
- may, in accordance with the terms of the arrangement, refer to an [assessment officer](#) of the agency any matter that [the staff member](#) would otherwise be required to [report](#) to the [Secretary](#) under that section.

(3) If [the staff member](#) refers such a matter to an [assessment officer](#) under any such arrangement, the [assessment officer](#) is, in accordance with the assessment guidelines issued by the [Secretary](#) for the purposes of this section, to assess whether the matter should be [reported](#) to the [Secretary](#) under section 27.

(4) If, in accordance with the assessment guidelines, the matter is assessed as a matter that should be [reported](#) to the [Secretary](#) under section 27, the [assessment officer](#) or [the staff member](#) is, as soon as practicable after the assessment, to [report](#) the matter to the [Secretary](#) under that section. Any such requirement applies in relation to the [assessment officer](#) as though the officer was a person to whom section 27 applies.

(5) If, in accordance with the assessment guidelines, the matter is assessed as a matter that should not be [reported](#) to the [Secretary](#) under section 27, the [assessment officer](#) or [the staff member](#) may, if the officer or staff member has concerns for the well-being of the [child](#) to whom the matter relates, make such referral or take such action as the officer or staff member considers necessary or appropriate (or as is reasonably available) to safeguard or promote the safety, welfare and well-being of the [child](#).

(6) If a matter is referred to an [assessment officer](#) in accordance with an arrangement under this section, [the staff member](#) making the referral is taken to have satisfied his or her obligations under section 27 in relation to the matter concerned.

(7) Sections 29 and 29AA apply in relation to a referral that is made to an [assessment officer](#) under this section in the same way as they apply to a [report](#) to which those sections apply. For that purpose, a reference in section 29 or 29AA to the making of a [report](#) includes a reference to the referral of a matter to an [assessment officer](#) in accordance with an arrangement under this section.

(8) A certificate purporting to be signed by an [assessment officer](#) that a document relating to a [child](#) is a referral that has been made to the [assessment officer](#) under this section is admissible in any proceedings and, in the absence of evidence to the contrary, is proof that the document is such a referral.

(9) The following provisions apply in relation to the appointment or designation of [assessment officers](#) for the purposes of this section:

- (a) more than one person may be appointed or designated as an [assessment officer](#) in relation to a [relevant agency](#),

(b) any such appointment or designation may (without limitation) be made by reference to the holder of a specified position or to a specified class of persons,

(c) a person may be appointed or designated as an [assessment officer](#) in relation to a [relevant agency](#) even though the person is employed in or engaged by another agency.

(10) The regulations may extend the operation of this section, with such exclusions and modifications as may be prescribed by the regulations, to any person (or a class of persons) who is a person (or class of persons) to whom section 27 applies but who is or are not employed in or engaged by a [relevant agency](#).

(11) For avoidance of doubt, the [head](#) of the NSW Health Service or the Health Executive Service is, for the purposes of this section, the [Secretary](#) of the Ministry of Health.

(12) A staff member of a [relevant agency](#) may, in accordance with the terms of an arrangement under this section, refer any of the following matters to an [assessment officer](#) of the agency:

(a) a matter relating to a [young person](#) that [the staff member](#) would otherwise [report](#) to the [Secretary](#) under section 24,

(b) a matter relating to an unborn [child](#) that [the staff member](#) would otherwise [report](#) to the [Secretary](#) under section 25.

Children and Young Persons (Care and Protection) Act 1998 — Sect. 28. Records of reports and subsequent action.

Child and Young Persons (Care and Protection) Act 1998 (NSW). S.28. (Austral.)

The [Secretary](#) must keep a record of:

(a) any [report](#) made to the [Secretary](#), and

(b) any action taken as a direct consequence of the [report](#) that has a significant effect on the [child](#) or [young person](#) to whom the [report](#) relates.

Children and Young Persons (Care and Protection) Act 1998 — Sect. 29. Protections of persons who make reports or provide certain information.

Child and Young Persons (Care and Protection) Act 1998 (NSW). S.29. (Austral.)

(1) If, in relation to a [child](#) or [young person](#) or a class of [children](#) or [young persons](#), a person makes a [report](#) in good faith to the [Secretary](#) or to a person who has the power or responsibility to protect the [child](#) or [young person](#) or the class of [children](#) or [young persons](#):

(a) the making of the [report](#) does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct, and

(b) no liability for defamation is incurred because of the [report](#), and

(c) the making of the [report](#) does not constitute a ground for civil proceedings for malicious prosecution or for conspiracy, and

(d) the [report](#), or evidence of its contents, is not admissible in any proceedings other than the following proceedings (and appeals arising from the following proceedings):

(i) [care proceedings](#) in the [Children's Court](#),

(ii) proceedings in relation to a [child](#) or [young person](#) under the [Family Law Act 1975](#) of the Commonwealth,

(iii) proceedings in relation to a [child](#) or [young person](#) before the Supreme [Court](#) or the Civil and Administrative Tribunal,

(iv) proceedings before the Civil and Administrative Tribunal that

are allocated to the [Guardianship](#) Division of the Tribunal or are commenced under the [Victims Rights and Support Act 2013](#) ,
(v) proceedings under the [Coroners Act 2009](#) , and

(e) a person cannot be compelled in any proceedings to produce the [report](#) or a copy of or extract from it or to disclose or give evidence of any of its contents, and

(f) the identity of the person who made the [report](#), or information from which the identity of that person could be deduced, must not be disclosed by any person or body, except with:

(i) the consent of the person who made the [report](#), or

(ii) the leave of a [court](#) or other body before which proceedings relating to the [report](#) are conducted, and, unless that consent or leave is granted, a party or witness in any such proceedings must not be asked, and, if asked, cannot be required to answer, any question that cannot be answered without disclosing the identity or leading to the identification of that person.

(1A) A certificate purporting to be signed by the [Secretary](#) that a document relating to a [child](#) or [young person](#) or a class of [children](#) or [young persons](#) is a [report](#) to which this section applies is admissible in any proceedings and, in the absence of evidence to the contrary, is proof that the document is such a [report](#).

(2) A [court](#) or other body cannot grant leave under subsection (1) (f) (ii) unless the [court](#) or other body is satisfied that the evidence is of critical importance in the proceedings and that failure to admit it would prejudice the proper administration of justice.

(3) A [court](#) or other body that grants leave under subsection (1) (f) (ii):

(a) must state the reasons why leave is granted, and

(b) must ensure that the holder of the [report](#) is informed that evidence as to the identity of the person who made the [report](#), or from which the identity of that person could be deduced, has been disclosed.

(3A) The protections given by this section to a person who makes a [report](#) apply to:

(a) any person who provided information on the basis of which the [report](#) was made, in good faith, to the person, and

(b) any person who otherwise was in good faith concerned in making such a [report](#) or causing such a [report](#) to be made, in the same way as they apply in respect of the person who actually made the [report](#).

(4) Subsection (1) (f) does not prevent the disclosure of information from which the identity of a person may be deduced if the prohibition on the disclosure of that information would prevent the proper investigation of the [report](#).

(4A) Subsection (1) (f) also does not prevent the disclosure to a [law enforcement agency](#) of the identity of the person who made the [report](#) ("[the reporter](#)"), or information from which the identity of [the reporter](#) could be deduced, if:

(a) the identity of [the reporter](#), or the information, is disclosed in connection with the investigation of a [serious offence](#) or [reportable conduct](#) alleged to have been committed or done against a [child](#) or [young person](#), and

(b) the disclosure is necessary for the purposes of safeguarding or promoting the safety, welfare and well-being of any [child](#) or [young person](#) (whether or not the victim of the alleged offence).

(4B) However, subsection (4A) does not apply unless:

(a) a [senior officer](#) of the [law enforcement agency](#) to which the disclosure is made has, before the disclosure is made, certified in writing that obtaining [the reporter](#)'s consent would prejudice the investigation of

the [serious offence](#) or [reportable conduct](#) concerned, or
(b) the person or body that makes the disclosure has, before making the disclosure, certified in writing that it is impractical to obtain the consent of [the reporter](#).

(4C) The person or body that discloses to a [law enforcement agency](#) the identity of [the reporter](#), or the information from which the identity of [the reporter](#) could be deduced, is required to notify [the reporter](#) of the disclosure unless:

- (a) it is not reasonably practicable in the circumstances to do so, or
- (b) the [law enforcement agency](#) to which the disclosure is made has advised the person or body that notifying [the reporter](#) would prejudice the investigation of the [serious offence](#) or [reportable conduct](#) concerned.

(6) In this section:

“court” includes a [court](#) exercising federal jurisdiction.

“law enforcement agency” means any of the following:

- (a) the NSW Police Force,
- (b) the Australian Federal Police,
- (c) the police force of another State or Territory,
- (d) a person or body prescribed by the regulations for the purposes of this definition.

“report” includes a [report](#) under sections 24, 25, 27, 120, 121 and 122.

“reportable conduct” means:

- (a) [reportable conduct](#) within the meaning of Part 3A of the [Ombudsman Act 1974](#) or conduct referred to in [clause 2](#) of Schedule 1 to the [Child Protection \(Working with Children\) Act 2012](#), or
- (b) conduct occurring elsewhere than in New South Wales that, if occurring in New South Wales, would be [reportable conduct](#) under paragraph (a).

“senior officer” means:

- (a) in relation to the NSW Police Force—a commissioned police officer within the meaning of the [Police Act 1990](#), or
- (b) in relation to any other [law enforcement agency](#)--a person (or class of persons) prescribed by the regulations as a [senior officer](#) of the agency.

“serious offence” means:

- (a) a serious indictable offence within the meaning of the [Crimes Act 1900](#), or
- (b) an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be an offence under paragraph (a).

Note : It is an offence under section 254 for a person to disclose any information obtained in connection with the administration or execution of this Act, except in certain circumstances. The maximum penalty is 10 penalty units (currently \$1,100) or imprisonment for up to 12 months, or both.

Children and Young Persons (Care and Protection) Act 1998 — Sect. 29AA. Special provision relating to royal commissions.

Child and Young Persons (Care and Protection) Act 1998 (NSW). S.29AA. (Austral.)

(1) Despite section 17 of the [Royal Commissions Act 1923](#), that section does not authorise or compel the disclosure to a Royal Commission of the identity of a person who made a [report](#) to which section 29 applies, or information from which the identity of that person could be deduced, except with:

- (a) the consent of the person who made the [report](#), or

(b) the leave of a person who is a commissioner within the meaning of Division 2 of Part 2 of the [Royal Commissions Act 1923](#) .

(2) A commissioner cannot grant leave under this section unless the commissioner is satisfied that the [report](#) or information concerned is of significant importance to the inquiry.

(3) The protection given by this section to a person who made a [report](#) (a “**reporter**”) applies to:

(a) any person who provided information to the [reporter](#) on the basis of which the [report](#) was made, and

(b) any person who otherwise was concerned in making such a [reporter](#) causing such a [report](#) to be made, in the same way as it applies in respect of the [reporter](#).

Children and Young Persons (Care and Protection) Act 1998 — Sect. 29A. Person who makes report is not prevented from helping child or young person.

Child and Young Persons (Care and Protection) Act 1998 (NSW). S.29A. (Austral.)

For avoidance of doubt, it is declared that a person who is permitted or required by this Part to make a [report](#) is not prevented, by reason only of having made that [report](#), from responding to the needs of, or discharging any other obligations in respect of, the [child](#) or [young person](#) the subject of the [report](#) in the course of that person’s employment or otherwise.

Northern Territory

[Care and Protection of Children Act 2007 \(NT\) – s.13. \(Austrl.\) – Defintions.](#)

Care and Protection of Children Act 2007 — Sect. 15. Harm to child.

Care and Protection of Children Act 2007 (NT). s.15. (Austrl.)

(1) Harm to a child is any significant detrimental effect caused by any act, omission or circumstance on:

- (a) the physical, psychological or emotional wellbeing of the child; or
- (b) the physical, psychological or emotional development of the child.

(2) Without limiting subsection (1), harm can be caused by the following:

- (a) physical, psychological or emotional abuse or neglect of the child;
- (b) sexual abuse or other exploitation of the child;
- (c) exposure of the child to physical violence.

Example - A child witnessing violence between the child's [parents](#) at home.

Care and Protection of Children Act 2007 — Sect. 16. Exploitation of child.

Care and Protection of Children Act 2007 (NT). s.16. (Austrl.)

(1) Exploitation of a child includes sexual and any other forms of exploitation of the child.

(2) Without limiting subsection (1), sexual exploitation of a child includes:

- (a) sexual abuse of the child; and
- (b) involving the child as a participant or spectator in any of the following:
 - (i) an act of a sexual nature;
 - (ii) prostitution;
 - (iii) a pornographic performance.

Care and Protection of Children Act 2007 — Sect. 26. Reporting obligations.

Care and Protection of Children Act 2007 (NT). s.26. (Austrl.)

(1) A person is guilty of an offence if the person:

- (a) believes, on reasonable grounds, that a child:
 - (i) has been or is likely to be a victim of a sexual offence; or
 - (ii) otherwise has suffered or is likely to suffer harm or exploitation;and
- (b) does not, as soon as possible after forming that belief, report (orally or in writing) to the CEO or a police officer:
 - (i) that belief; and
 - (ii) any knowledge of the person forming the grounds for that belief;and
- (iii) any factual circumstances on which that knowledge is based.

Maximum penalty: 200 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

(3) This section has effect despite any other provision in this Act or another law of the Territory.

Care and Protection of Children Act 2007 — Sect. 27. Protection of person making report.

Care and Protection of Children Act 2007 (NT). s.27. (Austrl.)

- (1) A person acting in good faith in making a report under section 26(1) is not civilly or criminally liable, or in breach of any professional code of conduct:
 - (a) for making the report; or
 - (b) for disclosing any information in the report.
- (2) In any proceedings before a court, except with the court's leave:
 - (a) the report or evidence of its contents is not admissible; and
 - (b) a person cannot be compelled to give evidence, or to produce a record, about the report or the identity of the maker of the report.
- (3) The leave may be granted only if:
 - (a) the report, evidence or record is of critical importance to the proceedings; and
 - (b) failure to grant the leave would prejudice the proper administration of justice.

Care and Protection of Children Act 2007 — Sect. 28. What happens when police officer receives report.

Care and Protection of Children Act 2007 (NT). s.28. (Austrl.)

- (1) A police officer must, as soon as practicable after receiving a report under section 26(1), notify the CEO about the receipt of the report.
- (2) The notification must include details in the report.

Care and Protection of Children Act 2007 — Sect. 29. What happens when CEO receives report or notification.

Care and Protection of Children Act 2007 (NT). s.29. (Austrl.)

- (1) The CEO must record the receipt of a report under section 26(1) or a notification about a report under section 28(1) in relation to a child.
- (2) The CEO may inform the following persons about actions that the CEO has taken or proposes to take for the child:
 - (a) the person who made the report;
 - (b) the police officer who gave the notification.

Care and Protection of Children Act 2007 — Sect. 30. Duties of other persons.

Care and Protection of Children Act 2007 (NT). s.30. (Austrl.)

- (1) Each of the following persons must ensure everyone providing services for a child under the person's control or direction is aware of the obligations under section 26(1):
 - (a) an operator of child-related services;
 - (b) an operator of children's services;
 - (c) the person in charge of a hospital or any other facility for health services;
 - (d) the person in charge of a school or any other educational institution.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Each person who engages another person in child-related employment must ensure the other person is aware of the obligations under section 26(1).

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (3) It is a defence to a prosecution for an offence against subsection (1) or (2) if the

defendant has a reasonable excuse.

Care and Protection of Children Act 2007 — Sect. 145. Medical practitioner may disclose information.

Care and Protection of Children Act 2007 (NT), s.145. (Austrl.)

[Section 12\(2\)](#) of the [Evidence Act](#) does not apply to the proceedings.

Note - [Section 12\(2\)](#) of the [Evidence Act](#) prohibits the disclosure by a medical practitioner of certain information.

Queensland

[Child Protection Act 1999 \(Qld\) s.8. \(Austrl.\) – Who is a child.](#)

[Child Protection Act 1999 \(Qld\) s.9. \(Austrl.\) – What is harm.](#)

[Child Protection Act 1999 \(Qld\) s.10. \(Austrl.\) – Who is a child in need of protection.](#)

[Child Protection Act 1999 \(Qld\) s.11. \(Austrl.\) – Who is a parent.](#)

[Education \(General Provisions\) Act 2006 \(Qld\) s.364. \(Austrl.\) – Definitions for pt 10.](#)

Child Protection Act 1999 — Sect. 13A. Actions by persons generally.

Child Protection Act 1999 (Qld) s.13A. (Austrl.)

(1) Any person may inform the chief executive if the person reasonably suspects—
(a) a child may be in need of protection; or
(b) an unborn child may be in need of protection after he or she is born.

(2) The information given may include anything the person considers relevant to the person's suspicion.

Child Protection Act 1999 — Sect. 13B. Action by relevant persons under other provisions.

Child Protection Act 1999 (Qld) s.13B. (Austrl.)

(1) Under *division 2*, if a [relevant person](#) has a [reportable suspicion](#) about a child, the person is required to report the matter to the chief executive.

(2) If a [relevant person](#) does not have a [reportable suspicion](#) about a child but considers the child is likely to become a child in need of protection if no preventative support is given, the person may take other appropriate action under this Act.

(3) For example, if the [relevant person](#) is a prescribed entity to which *section 159M* applies, the person may give information under that section to a service provider so the service provider can offer help and support to the child or child's family to stop the child becoming a child in need of protection.

Child Protection Act 1999 — Sect. 13C. Considerations when forming a reasonable suspicion about harm to a child.

Child Protection Act 1999 (Qld) s.13C. (Austrl.)

(1) This section applies to a person in forming a reasonable suspicion, for *section 13A (1)* or *division 2*, about whether a child has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm.

(2) The matters that the person may consider include—
(a) whether there are detrimental effects on the child's body or the child's psychological or emotional state—
(i) that are evident to the person; or
(ii) that the person considers are likely to become evident in the future; and
(b) in relation to any detrimental effects mentioned in paragraph (a)—
(i) their nature and severity; and
(ii) the likelihood that they will continue; and
(c) the child's age.

(3) The person's consideration may be informed by an observation of the child, other knowledge about the child or any other relevant knowledge, training or experience that the person may have.

Child Protection Act 1999 — Sect. 13D. Protection from liability.

Child Protection Act 1999 (Qld) s.13D. (Austrl.)

Section 197A provides for protection from liability for information given under this part.

Child Protection Act 1999 — Sect. 13E. Mandatory reporting by persons engaged in particular work.

Child Protection Act 1999 (Qld) s.13E. (Austral.)

(1) This section applies to a person (a **“relevant person”**) who is any of the following

—

- (a) a doctor;
- (b) a registered nurse;
- (c) a teacher;
- (d) a police officer who, under a direction given by the commissioner of the police service under the [Police Service Administration Act 1990](#), is responsible for reporting under this section;
- (e) a person engaged to perform a child advocate function under the *Public Guardian Act 2014*;
- (f) an [early childhood education and care professional](#).

(2) For this section, a **“reportable suspicion”** about a child is a reasonable suspicion that the child—

- (a) has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse; and
- (b) may not have a [parent](#) able and willing to protect the child from the harm.

(3) If a [relevant person](#) forms a [reportable suspicion](#) about a child in the course of the person's engagement as a [relevant person](#), the person must give a written report to the chief executive under *section 13G*.

(4) In this section— **“early childhood education and care professional”** means an individual, other than a volunteer or an individual under the age of 18, who is—

- (a) any of the following under the *Education and Care Services Act 2013* —
 - (i) an approved provider;
 - (ii) a supervisor for a QEC approved service;
 - (iii) an educator for a QEC approved service; or
- (b) any of the following under the *Education and Care Services National Law (Queensland)* —
 - (i) an approved provider;
 - (ii) a nominated supervisor for an approved education and care service;
 - (iii) an educator for an approved education and care service;
 - (iv) a family day care co-ordinator for an approved family day care service;
 - (v) a family day care educator for an approved family day care service.

Child Protection Act 1999 — Sect. 13F. Mandatory reporting relating to children in departmental or licensed care.

Child Protection Act 1999 (Qld) s.13F. (Austral.)

(1) This section applies to a person (a **“relevant person”**) who is any of the following—

- (a) an authorised officer;
- (b) a public service employee employed in the department;
- (c) a person employed in a departmental care service or licensed care service.

(2) For this section, a **“reportable suspicion”** about a [child in care](#) is a reasonable suspicion that the child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse.

(3) If a [relevant person](#) forms a [reportable suspicion](#) about a [child in care](#), the person must give a written report to the chief executive under *section 13G*.

(4) In this section— “**child in care**” means a child placed in the care of an entity conducting a departmental care service or a licensee.

Child Protection Act 1999 — Sect. 13G. Reports to the chief executive.

Child Protection Act 1999 (Qld) s.13G. (Austral.)

(1) This section applies to a report that a [relevant person](#) is required to give under *section 13E* or *13F*.

(2) The report must—

- (a) state the basis on which the person has formed the [reportable suspicion](#); and
- (b) include the information prescribed by regulation, to the extent of the person’s knowledge.

(3) The person is not required to give a report about a matter if—

- (a) giving the report might tend to incriminate the person; or
- (b) the person knows, or reasonably supposes, that the chief executive is aware of the matter.

(4) A regulation may prescribe the way the report must be given.

(5) To remove any doubt, it is declared that a person does not commit an offence against this or another Act only because the person omits to do an act required under *section 13E (3)* or *13F (3)* or this section.

Child Protection Act 1999 — Sect. 13H. Conferrals with colleague and related information sharing.

Child Protection Act 1999 (Qld) s.13H. (Austral.)

(1) A [relevant person](#) may give information to a [colleague](#), and a [colleague](#) may give information to a [relevant person](#), for any of the following purposes—

- (a) for the [relevant person](#) to form a suspicion about whether a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse;
- (b) in the case of a [relevant person](#) under *section 13E*—for the [relevant person](#) to form a suspicion about whether a child has a [parent](#) able and willing to protect the child from harm mentioned in paragraph (a);
- (c) for the [relevant person](#) to give a report under *section 13G* or keep a record about giving a report;
- (d) for the [relevant person](#) or [colleague](#) to take appropriate action to deal with suspected harm or risk of harm to a child.

Example:

1 A teacher with a [reportable suspicion](#) about a child under *section 13E* may give information to the principal at the school to enable the principal to take appropriate action to protect the child or other children from risk of harm.

2 An educator under the Education and Care Services National Law (Queensland) with a [reportable suspicion](#) about a child under *section 13E* may give information to the nominated supervisor for the approved education and care service, within the meaning of that Law, to enable the supervisor to take appropriate action to protect the child or other children from risk of harm.

(2) In this section— “**colleague**” , of a [relevant person](#), means a person working in or for the same entity as the [relevant person](#).

Child Protection Act 1999 — Sect. 131. Reporting obligation arises when reportable suspicion is formed.

Child Protection Act 1999 (Qld) s.131. (Austral.)

To remove any doubt, it is declared that—

(a) a [relevant person](#) is not required to give a report under *section 13G* until the person has formed a [reportable suspicion](#) about a child; and

Example: After observing injuries on a child’s body, a doctor or teacher considers it possible that a [parent](#) of the child has physically abused the child or failed to protect the child from physical abuse. After obtaining further information about the family’s circumstances, the doctor or teacher forms a [reportable suspicion](#) about the child under *section 13E* .

(b) once a [relevant person](#) has formed a [reportable suspicion](#) about a child, the person must comply with *section 13G* even though the person is taking, or has taken, other action in relation to the child.

Child Protection Act 1999 — Sect. 105. Evidence.

Child Protection Act 1999 (Qld) s.105. (Austral.)

(1) In a proceeding, the Childrens Court is not bound by the rules of evidence, but may inform itself in any way it thinks appropriate.

(2) If, on an application for an order, the Childrens Court is to be satisfied of a matter, the court need only be satisfied of the matter on the balance of probabilities.

Child Protection Act 1999 — Sect. 186. Confidentiality of notifiers of harm or risk of harm.

Child Protection Act 1999 (Qld) s.186. (Austral.)

(1) This section applies if a person (the “**notifier**”) notifies the chief executive or an authorised officer, police officer, doctor or nurse that the [notifier](#) suspects—

(a) a child has been, is being or is likely to be, harmed; or

(b) an unborn child may be at risk of harm after he or she is born.

(2) The person who receives the notification, or a person who becomes aware of the identity of the [notifier](#), must not disclose the identity of the [notifier](#) to another person unless the disclosure is made—

(a) in the course of performing functions under this Act or a child welfare law or interstate law of another State to another person performing functions under this Act or a child welfare law or interstate law of another State; or

(b) under the [Child Protection \(International Measures\) Act 2003](#) ,part 6 ; or

(c) to the ombudsman conducting an investigation under the [Ombudsman Act 2001](#) ; or

(e) for the performance by the chief executive (adoptions) of his or her functions under the *Adoption Act 2009* ; or

(f) by way of evidence given in a legal proceeding under *subsections (3) and (4)* ; or

(g) to the litigation director for the purposes of the director performing a function under the *Director of Child Protection Litigation Act 2016* .

Penalty: Maximum penalty—40 penalty units.

(3) Subject to *subsection (4)* —

- (a) evidence of the identity of the [notifier](#) or from which the identity of the [notifier](#) could be deduced must not be given in a proceeding before a court or tribunal without leave of the court or tribunal; and
- (b) unless leave is granted, a party or witness in the proceeding—
 - (i) must not be asked, and, if asked, can not be required to answer, any question that can not be answered without disclosing the identity of, or leading to the identification of, the [notifier](#); and
 - (ii) must not be asked to produce, and, if asked, can not be required to produce, any document that identifies, or may lead to the identification of, the [notifier](#).

(4) The court or tribunal must not grant leave unless—

- (a) it is satisfied—
 - (i) the evidence is of critical importance in the proceeding; and
 - (ii) there is compelling reason in the public interest for disclosure; or
- (b) the [notifier](#) agrees to the evidence being given in the proceeding.

(5) In deciding whether to grant leave, the court or tribunal must take into account—

- (a) the possible effects of disclosure on the safety or wellbeing of the [notifier](#) and the [notifier's](#) family; and
- (b) the public interest in maintaining confidentiality of [notifiers](#).

(6) As far as practicable, an application for leave must be heard in a way that protects the identity of the [notifier](#) pending a decision on the application.

Child Protection Act 1999 — Sect. 197A. Protection from liability for giving information about alleged harm or risk of harm.

Child Protection Act 1999 (Qld) s.197A. (Austral.)

(1) This section applies if a person, acting honestly and reasonably—

- (a) gives information to the chief executive under *chapter 2, part 1AA* ; or
- (b) otherwise notifies the chief executive or another public service employee employed in the department that the person suspects—
 - (i) a child has suffered harm, is suffering harm or is at risk of suffering harm; or
 - (ii) an unborn child may be at risk of harm after he or she is born; or
- (c) otherwise gives the chief executive, an authorised officer or a police officer—
 - (i) information about alleged harm or alleged risk of harm to a child; or
 - (ii) information, relating to an unborn child, about a suspected risk of harm to the child after he or she is born; or
- (d) gives information to a [relevant person](#) or colleague of a [relevant person](#) under *section 13H* .

(2) The person is not liable, civilly, criminally or under an administrative process, for giving the notification or information.

(3) Also, merely because the person gives the notification or information, the person can not be held to have—

- (a) breached any code of professional etiquette or ethics; or
- (b) departed from accepted standards of professional conduct.

(4) Without limiting *subsections (2) and (3)* —

- (a) in a proceeding for defamation, the person has a defence of absolute

privilege for publishing the information; and
(b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—

- (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
- (ii) is not liable to disciplinary action for giving the information.

Education (General Provisions) Act 2006 — Sect. 365. Obligation to report sexual abuse of person under 18 years at State school.

Education (General Provisions) Act 2006 (Qld). s.365. (Austral.)

(1) *Subsection (2)* applies if a staff member of a State school (the “**first person**”) becomes aware, or reasonably suspects, in the course of the staff member’s employment at the school, that any of the following has been sexually abused by another person—

- (a) a student under 18 years attending the school;
- (b) a pre-preparatory age child registered in—
 - (i) a pre-preparatory learning program at the school; or
 - (ii) a distance education pre-preparatory learning program at the school;
- (c) a person with a disability who—
 - (i) under *section 420 (2)*, is being provided with special education at the school; and
 - (ii) is not enrolled in the preparatory year at the school.

(2) The first person must give a written report about the abuse, or suspected abuse, to the school’s principal or the principal’s supervisor—

- (a) immediately; and
- (b) if a regulation is in force under *subsection (3)*, as provided under the regulation.

Penalty: Maximum penalty—20 penalty units.

(2A) However, if the first person is the school’s principal, the principal must give a written report about the abuse, or suspected abuse, to a police officer—

- (a) immediately; and
- (b) if a regulation is in force under *subsection (3)*, as provided under the regulation.

Penalty: Maximum penalty—20 penalty units.

(3) A regulation may prescribe the particulars the report must include.

(4) A State school’s principal or a principal’s supervisor must immediately give a copy of a report given to the principal or supervisor under *subsection (2)* to a police officer.

Penalty: Maximum penalty—20 penalty units.

(4A) *Subsection (5)* applies if the report is about abuse by an employee of a State school.

(5) The principal or principal’s supervisor must also immediately give a copy of the report to a person nominated by the chief executive for the purpose (the “**chief executive’s nominee**”).

Penalty: Maximum penalty—20 penalty units.

(6) A person who makes a report under *subsection (2)* or *(2A)* , or gives a copy of a report under *subsection (4)* or *(5)* , is not liable, civilly, criminally or under an administrative process, for giving the information contained in the report to someone else.

(7) Without limiting *subsection (6)* —

- (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
- (b) if the person would otherwise be required to maintain confidentiality about the given information under an Act, oath, rule of law or practice—the person does not contravene the requirement by giving the information.

Education (General Provisions) Act 2006 — Sect. 365A. Obligation to report likely sexual abuse of person under 18 years at State school.

Education (General Provisions) Act 2006 (Qld). s.365A. (Austral.)

(1) *Subsection (2)* applies if a staff member of a State school (the **“first person”**) reasonably suspects, in the course of the staff member’s employment at the school, that any of the following is likely to be sexually abused by another person—

- (a) a student under 18 years attending the school
- (b) a pre-preparatory age child registered in—
 - (i) a pre-preparatory learning program at the school; or
 - (ii) a distance education pre-preparatory learning program at the school;
- (c) a person with a disability who—
 - (i) under *section 420 (2)* , is being provided with special education at the school; and
 - (ii) is not enrolled in the preparatory year at the school.

(2) The first person must give a written report about the first person’s suspicion to the school’s principal or the principal’s supervisor—

- (a) immediately; and
- (b) if a regulation is in force under *subsection (4)* , as provided under the regulation.

(3) However, if the first person is the school’s principal, the principal must give a written report about the suspicion to a police officer—

- (a) immediately; and
- (b) if a regulation is in force under *subsection (4)* , as provided under the regulation.

(4) A regulation may prescribe the particulars the report must include.

(5) A State school’s principal or a principal’s supervisor must immediately give a copy of a report given to the principal or supervisor under *subsection (2)* to a police officer.

(6) *Subsection (7)* applies if the report is about a suspicion of likely abuse by an employee of a State school.

(7) The principal or principal’s supervisor must also immediately give a copy of the report to a person nominated by the chief executive for the purpose (the **“chief executive’s nominee”**).

(8) A person who makes a report under *subsection (2)* or *(3)* , or gives a copy of a report under *subsection (5)* or *(7)* , is not liable, civilly, criminally or under an administrative process, for giving the information contained in the report to someone else.

- (9) Without limiting *subsection (8)* —
- (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
 - (b) if the person would otherwise be required to maintain confidentiality about the given information under an Act, oath, rule of law or practice—the person does not contravene the requirement by giving the information.

(10) To remove any doubt, it is declared that a person does not commit an offence against this or another Act only because the person omits to do an act required under this section.

Education (General Provisions) Act 2006 — Sect. 366. Obligation to report sexual abuse of person under 18 years at non-State school.

Education (General Provisions) Act 2006 (Qld). s.366. (Austral.)

(1) *Subsection (2)* applies if a staff member of a non-State school (the “**first person**”) becomes aware, or reasonably suspects, in the course of the staff member’s employment at the school, that any of the following has been sexually abused by another person—

- (a) a student under 18 years attending the school;
- (b) a pre-preparatory age child registered in a pre-preparatory learning program at the school;
- (c) a person with a disability who—
 - (i) under *section 420 (2)*, is being provided with special education at the school; and
 - (ii) is not enrolled in the preparatory year at the school.

(2) The first person must give a written report about the abuse, or suspected abuse, to the school’s principal or a director of the school’s governing body—

- (a) immediately; and
- (b) if a regulation is in force under *subsection (3)*, as provided under the regulation.

Penalty: Maximum penalty—20 penalty units.

(2A) However, if the first person is the school’s principal, the principal must give a written report about the abuse, or suspected abuse, to a police officer—

- (a) immediately; and
- (b) if a regulation is in force under *subsection (3)*, as provided under the regulation.

Penalty: Maximum penalty—20 penalty units.

(2B) If *subsection (2A)* applies, the principal must also immediately give a copy of the report to a director of the school’s governing body.

Penalty: Maximum penalty—20 penalty units.

(3) A regulation may prescribe the particulars the report must include.

(4) A non-State school’s principal or a director of a non-State school’s governing body must immediately give a copy of a report given to the principal or director under *subsection (2)* to a police officer.

Penalty: Maximum penalty—20 penalty units.

(5) A person who makes a report under *subsection (2)* or (2A), or gives a copy of a report under *subsection (2B)* or (4), is not liable, civilly, criminally or under an

administrative process, for giving the information contained in the report to someone else.

(6) Without limiting *subsection (5)* —

- (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
- (b) if the person would otherwise be required to maintain confidentiality about the given information under an Act, oath, rule of law or practice—the person does not contravene the requirement by giving the information.

Education (General Provisions) Act 2006 — Sect. 366A. Obligation to report likely sexual abuse of person under 18 years at non-State school.
Education (General Provisions) Act 2006 (Qld). s.366A. (Austral.)

(1) *Subsection (2)* applies if a staff member of a non-State school (the “**first person**”) reasonably suspects, in the course of the staff member’s employment at the school, that any of the following is likely to be sexually abused by another person—

- (a) a student under 18 years attending the school;
- (b) a pre-preparatory age child registered in a pre-preparatory learning program at the school;
- (c) a person with a disability who—
 - (i) under *section 420 (2)*, is being provided with special education at the school; and
 - (ii) is not enrolled in the preparatory year at the school.

(2) The first person must give a written report about the first person’s suspicion to the school’s principal or a director of the school’s governing body—

- (a) immediately; and
- (b) if a regulation is in force under *subsection (5)*, as provided under the regulation.

(3) However, if the first person is the school’s principal, the principal must give a written report about the suspicion to a police officer—

- (a) immediately; and
- (b) if a regulation is in force under *subsection (5)*, as provided under the regulation.

(4) If *subsection (3)* applies, the principal must also immediately give a copy of the report to a director of the school’s governing body.

(5) A regulation may prescribe the particulars the report must include.

(6) A non-State school’s principal or a director of a non-State school’s governing body must immediately give a copy of a report given to the principal or director under *subsection (2)* to a police officer.

(7) A person who makes a report under *subsection (2)* or *(3)*, or gives a copy of a report under *subsection (4)* or *(6)*, is not liable, civilly, criminally or under an administrative process, for giving the information contained in the report to someone else.

(8) Without limiting *subsection (7)* —

- (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
- (b) if the person would otherwise be required to maintain confidentiality about the given information under an Act, oath, rule of law or practice—the person does not contravene the requirement by giving the information.

(9) To remove any doubt, it is declared that a person does not commit an offence against this or another Act only because the person omits to do an act required under this section.

Education (General Provisions) Act 2006 — Sect. 366B. Delegation of director's reporting function under s 366 or 366A.

Education (General Provisions) Act 2006 (Qld). s.366B. (Austrl.)

(1) *Subsection (2)* applies if a non-State school's governing body has only one director.

(2) The director may delegate, to an appropriately qualified individual, the director's function.

(3) *Subsection (4)* applies if a non-State school's governing body has more than one director.

(4) All of the directors may, by unanimous resolution, delegate the directors' function to an appropriately qualified individual.

(4A) However, the director or directors must not delegate the function to the principal or any other staff member of the non-State school.

(5) If a delegate commits an offence against *section 366 (4)*, the delegator also commits the offence.

(6) However, it is a defence for the delegator to prove the delegator took all reasonable steps to ensure the delegate complied with the section.

(7) In this section—

"function", of a director of a non-State school's governing body, means the director's function of receiving a report and giving a copy of the report to a police officer under *section 366* or *366A*.

**South
Australia**

[Children's
Protection
Act 1993 \(SA\)
s.6. \(Austrl.\) -
Interpretation](#)

Children's Protection Act 1993 — Sect. 10. Interpretation; abuse and neglect.

Children's Protection Act 1993 (SA) s.10. (Austrl.)

In this Division—

“abuse or neglect”, in relation to a [child](#), has the same meaning as in section 6(1), but includes a reasonable likelihood, in terms of section 6(2)(b), of the [child](#) being killed, injured, [abused](#) or [neglected](#) by a person with whom the [child](#) resides.

Children's Protection Act 1993 — Sect. 11. Notification of abuse or neglect.

Children's Protection Act 1993 (SA) s.11. (Austrl.)

(1) If—

- (a) a person to whom this section applies suspects on reasonable grounds that a [child](#) has been or is being [abused](#) or [neglected](#); and
- (b) the suspicion is formed in the course of the person's work (whether paid or voluntary) or of carrying out official duties, the person must notify the [Department](#) of that suspicion as soon as practicable after he or she forms the suspicion.

Maximum penalty: \$10 000.

(2) This section applies to the following persons:

- (a) a [medical practitioner](#);
- (ab) a [pharmacist](#);
- (b) a registered or enrolled nurse;
- (c) a [dentist](#);
- (d) a [psychologist](#);
- (e) a police [officer](#);
- (f) a community corrections [officer](#) (an [officer](#) or employee of an administrative unit of the Public Service whose duties include the supervision of young or adult offenders in the community);
- (g) a social worker;
- (ga) a minister of religion;
- (gb) a person who is an employee of, or volunteer in, an organisation formed for religious or spiritual purposes;
- (h) a teacher in an educational institution (including a kindergarten);
- (i) an approved [family](#) day care provider;
- (j) any other person who is an employee of, or volunteer in, a government or [non-government organisation](#) that provides health, welfare, education, sporting or recreational, [child](#) care or residential services wholly or partly for [children](#), being a person who—
 - (i) is engaged in the actual delivery of those services to [children](#); or
 - (ii) holds a management position in the relevant organisation the duties of which include direct responsibility for, or direct supervision of, the provision of those services to [children](#).

(2a) In proceedings for an offence against subsection (1), it is a defence for the defendant to prove that his or her suspicion was due solely to having been informed of the suspected [abuse or neglect](#) by a police [officer](#) acting in the course of his or her official duties.

(2b) In proceedings for an offence against subsection (1), it is a defence for the defendant to prove that—

- (a) his or her suspicion was due solely to having been informed of the suspected [abuse or neglect](#) by another person to whom this section applies;

and
(b) he or she believed on reasonable grounds that the other person had given a notification under this section in respect of the suspected [abuse or neglect](#).

(3) A notification under this section must be accompanied by a statement of the observations, information and opinions on which the suspicion is based.

(4) This section does not require a priest or other minister of religion to divulge information communicated in the course of a confession made in accordance with the rules and usages of the relevant religion.

(5) A person does not necessarily exhaust his or her duty of care to a [child](#) by giving a notification under this section.

(6) A person must not threaten or intimidate, or cause damage, loss or disadvantage to, a person to whom this section applies because the person has discharged, or proposes to discharge, his or her duty under subsection (1).

Maximum penalty: \$10 000.

Children's Protection Act 1993 — Sect. 12. Protection from liability for voluntary or mandatory notification.

Children's Protection Act 1993 (SA) s.12. (Austral.)

A person who (whether voluntarily or pursuant to a requirement of this Act) notifies the [Department](#) of a suspicion that a [child](#) has been or is being [abused](#) or [neglected](#) or provides any information to the [Department](#) in respect of such a notification—

(a) cannot, by virtue of doing so, be held to have breached any code of professional etiquette or ethics, or to have departed from any accepted form of professional conduct; and

(b) insofar as he or she has acted in good faith, incurs no civil or criminal liability in respect of the notification or the provision of the information.

Children's Protection Act 1993 — Sect. 13. Confidentiality of notification of abuse or neglect.

Children's Protection Act 1993 (SA) s.13. (Austral.)

(1) For the purposes of this section, a notifier is a person who notifies the [Department](#) that he or she suspects that a [child](#) has been or is being [abused](#) or [neglected](#).

(2) Subject to this section, a person who receives a notification of [child abuse or neglect](#) from a notifier, or who otherwise becomes aware of the identity of a notifier, must not disclose the identity of the notifier to any other person unless the disclosure—

(a) is made in the course of official duties to another person acting in the course of official duties; or

(b) is made with the consent of the notifier; or

(c) is made by way of evidence adduced in accordance with subsections (3) and (4).

Maximum penalty: \$5 000.

(3) Subject to subsection (4)—

(a) no evidence as to the identity of a notifier, or from which the identity of the notifier could be deduced, may be adduced in proceedings before

a [court](#) without the permission of the [court](#); and
(b) unless such permission is granted, a party or witness in those proceedings must not be asked, and, if asked, cannot be required to answer, any question that cannot be answered without disclosing the identity of, or leading to the identification of, the notifier.

- (4) A [court](#) cannot grant permission under subsection (3) unless—
(a) the [court](#) is satisfied that the evidence is of critical importance in the proceedings and that failure to admit it would prejudice the proper administration of justice; or
(b) the notifier consents to the admission of the evidence in the proceedings.
- (5) An application for permission to adduce evidence under subsection (3)—
(a) must not, except as authorised by the [court](#), be heard and determined in public; and
(b) must be conducted in such a manner as to protect, so far as may be practicable, the identity of the notifier pending the determination of the application.

Children’s Protection Act 1993 — Sect. 45. Evidence etc.

Children, Young Persons and Their Families Act 1997 (Tas) s.45. (Austral.)

- (1) In any proceedings under this Act—
(a) the [Court](#) is not bound by the rules of evidence but may inform itself as it thinks fit; and
(b) the [Court](#) must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.
- (2) A fact to be proved in proceedings under this Act is sufficiently proved if proved on the balance of probabilities.

Children’s Protection Act 1993 — Sect. 61. Hindering a person in execution of duty.

Children, Young Persons and Their Families Act 1997 (Tas) s.61. (Austral.)

A person who hinders or obstructs the [Chief Executive](#), an [authorised police officer](#) or any other person in the execution, performance or discharge of a power, function or duty under this Act is guilty of an offence.

Maximum penalty: \$2 500 or imprisonment for 6 months.

Tasmania

[Children, Young Persons and Their Families Act 1997 \(Tas\) s.3. \(Austrl.\) - Interpretation](#)

Children, Young Persons and Their Families Act 1997 — Sect. 4. Meaning of “at risk.”

Children, Young Persons and Their Families Act 1997 (Tas) s.4. (Austrl.)

- (1) For the purposes of this Act, a child is [at risk](#) if –
- (a) the child has been, is being, or is likely to be, abused or neglected; or
 - (b) any person with whom the child resides or who has frequent contact with the child (whether the person is or is not a guardian of the child) –
 - (i) has threatened to kill or abuse or neglect the child and there is a reasonable likelihood of the threat being carried out; or
 - (ii) has killed or abused or neglected some other child or an adult and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person; or
 - (ba) the child is an affected child within the meaning of the [Family Violence Act 2004](#); or
 - (c) the guardians of the child are –
 - (i) unable to maintain the child; or
 - (ii) unable to exercise adequate supervision and control over the child; or
 - (iii) unwilling to maintain the child; or
 - (iv) unwilling to exercise adequate supervision and control over the child; or
 - (v) dead, have abandoned the child or cannot be found after reasonable inquiry; or
 - (vi) are unwilling or unable to prevent the child from suffering abuse or neglect; or
 - (d) the child is under 16 years of age and does not, without lawful excuse, attend a school, or other educational or training institution, regularly.

(2) For the purposes of subsection (1), it does not matter whether the conduct that puts a child [at risk](#) occurred or, as the case requires, is likely to occur wholly or partly outside Tasmania.

Children, Young Persons and Their Families Act 1997 — Sect. 13. Responsibility to prevent abuse or neglect or certain behaviour.

Children, Young Persons and Their Families Act 1997 (Tas) s.13. (Austrl.)

(1) An adult who knows, or believes or suspects on reasonable grounds, that a child is suffering, has suffered or is likely to suffer abuse or neglect has a responsibility to take steps to prevent the occurrence or further occurrence of the abuse or neglect.

(1A) If, while a woman is pregnant, an adult knows, or believes or suspects on reasonable grounds, that the child of that pregnancy once born –

- (a) is reasonably likely to suffer abuse or neglect; or
- (b) is reasonably likely to require medical treatment or other intervention as a result of the behaviour of the woman, or another person with whom the woman resides or is likely to reside, before the birth of the child –

that adult has a responsibility to take steps to prevent the occurrence of that abuse or neglect or that behaviour.

(2) One step the adult may take to prevent the occurrence of abuse or neglect of a child, or behaviour referred to in subsection (1A)(b), is to inform the Secretary or a Community-Based Intake Service of –

- (a) his or her knowledge, belief or suspicion; and
- (b) the basis of that knowledge, belief or suspicion.

**Children, Young Persons and Their Families Act 1997 — Sect. 14.
Informing of concern about abuse or neglect or certain behaviour.**
Children, Young Persons and Their Families Act 1997 (Tas) s.14. (Austral.)

(1) In this section,
prescribed person means –
(a) a medical practitioner; and
(b) a registered nurse or enrolled nurse; and
(ba) a person registered under the Health Practitioner Regulation National Law (Tasmania) in the midwifery profession; and
(c) a person registered under the Health Practitioner Regulation National Law (Tasmania) in the dental profession as a dentist, dental therapist, dental hygienist or oral health therapist; and
(d) a person registered under the Health Practitioner Regulation National Law (Tasmania) in the psychology profession; and
(e) a police officer; and
(f)
(g) a probation officer appointed or employed under [section 5](#) of the [Corrections Act 1997](#); and
(h) a principal and a teacher in any educational institution (including a kindergarten); and
(i) a person who provides child care, or a child care service, for fee or reward; and
(j) a person concerned in the management of an approved education and care service, within the meaning of the Education and Care Services National Law (Tasmania), or a child care service licensed under the [Child Care Act 2001](#); and
(k) any other person who is employed or engaged as an employee for, of or in, or who is a volunteer in –
(i) a Government Agency that provides health, welfare, education, child care or residential services wholly or partly for children; and
(ii) an organisation that receives any funding from the Crown for the provision of such services; and
(l) any other person of a class determined by the Minister by notice in the Gazette to be prescribed persons.

(2) If a prescribed person, in carrying out official duties or in the course of his or her work (whether paid or voluntary), believes, or suspects, on reasonable grounds, or knows –
(a) that a child has been or is being abused or neglected or is an affected child within the meaning of the [Family Violence Act 2004](#); or
(b) that there is a reasonable likelihood of a child being killed or abused or neglected by a person with whom the child resides; or
(c) while a woman is pregnant, that there is a reasonable likelihood that after the birth of the child –
(i) the child will suffer abuse or neglect, or may be killed by a person with whom the child is likely to reside; or
(ii) the child will require medical treatment or other intervention as a result of the behaviour of the woman, or another person with whom the woman resides or is likely to reside, before the birth of the child –

the prescribed person must inform the Secretary or a Community-Based Intake Service of that belief, suspicion or knowledge as soon as practicable after he or she forms the belief or suspicion or gains the knowledge.

Penalty: Fine not exceeding 20 penalty units.

(3) Whether a person informs the Secretary or a Community-Based Intake Service under subsection (2) verbally or in writing, the person must include in the information a statement of the observations, information, opinions and other grounds upon

which the belief, suspicion or knowledge is based.

(4) For the purposes of this section, the Secretary may issue or approve guidelines relating to the manner in which a person may inform the Secretary or a Community-Based Intake Service under subsection (2).

(5) Without limiting the matters and procedures that may be included in the guidelines, the guidelines may provide that a person may inform the Secretary or a Community-Based Intake Service under subsection (2) by following the procedure set out in the guidelines or by informing another person for or with whom the person works.

(6) It is a defence to a charge for an offence against subsection (2) –

(a) if the person charged can prove that he or she honestly and reasonably believed that the Secretary or a Community-Based Intake Service had been informed of all the reasonable grounds on which his or her belief, suspicion or knowledge was based by another person; or

(b) if the person charged has complied with guidelines issued under subsection (4) that apply to him or her in respect of the organisation, body or other person for whom or in which the person works.

**Children, Young Persons and Their Families Act 1997 — Sect. 16.
Confidentiality of person informing of knowledge, belief or suspicion of
abuse or neglect or certain behaviour.**

Children, Young Persons and Their Families Act 1997 (Tas) s.16. (Austral.)

(1) In this section –

notifier means a person who provides the Secretary or a Community-Based Intake Service with a risk notification.

(2) Subject to this section, a person who receives a risk notification from a notifier, or who otherwise becomes aware of the identity of a notifier because he or she is engaged in the administration of this Act, must not disclose the identity of the notifier to any other person unless the disclosure –

(a) is made in the course of official duties under this Act to another person acting in the course of official duties; or

(b) is made with the consent of the notifier; or

(c) is made by way of evidence adduced with leave granted by a court under subsection (3).

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 12 months, or both.

(3) Evidence as to the identity of a notifier, or from which the identity of the notifier could be deduced, must not be adduced in proceedings before any court without leave of that court.

(4) Unless a court grants leave under subsection (3), a party or witness in the proceedings must not be asked, and, if asked, cannot be required to answer, any question that cannot be answered without disclosing the identity of, or leading to the identification of, the notifier.

(5) A court cannot grant leave under subsection (3) unless –

(a) that court is satisfied that the evidence is of critical importance in the proceedings and that failure to admit it would prejudice the proper administration of justice; or

(b) the notifier consents to the admission of the evidence in the proceedings.

- (6) An application to a court for leave to adduce evidence under subsection (3) –
- (a) must not, except as authorised by that court, be heard and determined in public; and
 - (b) must be conducted in a manner which protects, as far as may be practicable, the identity of the notifier pending the determination of the application.

(7) The [Right to Information Act 2009](#) does not apply to the identity of a notifier or any information contained in or relating to a risk notification that may lead to the identification of the notifier.

**Children, Young Persons and Their Families Act 1997 — Sect. 63.
Evidence.**

Children, Young Persons and Their Families Act 1997 (Tas) s.63. (Austral.)

- In any proceedings under this Act, the Court –
- (a) is to conduct proceedings before it in an informal manner; and
 - (b) is not bound by the rules of evidence; and
 - (c) is to consider evidence on the balance of probabilities; and
 - (d) may inform itself in any way it considers appropriate.

Victoria

[Children, Youth and Families Act 2005 \(Vic\) s. 3. \(Austral.\) - Definitions](#)

[Crimes Act 1958 \(Vic\) s. 2A. \(Austral.\) - Definitions](#)

Children, Youth and Families Act 2005 — Sect. 28. Report to Secretary about child.

Children, Youth and Families Act 2005 (Vic) s.28. (Austral.)

A person may make a report to the [Secretary](#) if the person has a significant concern for the wellbeing of a [child](#).

Children, Youth and Families Act 2005 — Sect. 29. Report to Secretary about unborn child.

Children, Youth and Families Act 2005 (Vic) s.29. (Austral.)

A person may make a report to the [Secretary](#), before the birth of a [child](#), if the person has a significant concern for the wellbeing of the [child](#) after his or her birth.

Children, Youth and Families Act 2005 — Sect. 30. Response by Secretary to report.

Children, Youth and Families Act 2005 (Vic) s.30. (Austral.)

- (1) If the Secretary receives a report under section 28, the Secretary may—
 - (a) provide advice to the person who made the report;
 - (b) provide advice and assistance to the child or the family of the child;
 - (c) refer the matter to a community-based child and family service or a service agency to provide advice, services and support to the child or the family of the child;
 - (d) make a determination, under section 34, that the report is a protective intervention report.
- (2) If the Secretary receives a report under section 29, the Secretary may—
 - (a) provide advice to the person who made the report;
 - (b) provide advice and assistance to the mother of the unborn child;
 - (c) refer the matter to a community-based child and family service or a service agency to provide advice, services and support to the mother of the unborn child.

Children, Youth and Families Act 2005 — Sect. 31. Referral to community-based child and family services about child.

Children, Youth and Families Act 2005 (Vic) s.31. (Austral.)

A person who has a significant concern for the wellbeing of a child may refer the matter to a community-based child and family service.

Children, Youth and Families Act 2005 — Sect. 32. Referral to community-based child and family services about unborn child.

Children, Youth and Families Act 2005 (Vic) s.32. (Austral.)

A person who, before the birth of a [child](#), has a significant concern for the wellbeing of the [child](#) after his or her birth may refer the matter to a [community-based child and family service](#).

Children, Youth and Families Act 2005 — Sect. 33. Response by community-based child and family services to referral.

Children, Youth and Families Act 2005 (Vic) s.33. (Austral.)

- (1) If a matter is referred to a community-based child and family service under section 31, the service may—
 - (a) provide advice to the person who made the referral;
 - (b) provide advice and assistance to the child or the family of the child;

(c) refer the matter to another community-based child and family service or to a service agency to provide advice, services and support to the child or the family of the child.

(2) If a referral is made to a community-based child and family service under section 31 and it considers that the child may be in need of protection, the service must report the matter to the Secretary.

(3) If a referral is made to a community-based child and family service under section 32, the service may—

- (a) seek advice from the Secretary in relation to the referral;
- (b) provide advice to the person who made the referral;
- (c) provide advice and assistance to the mother of the unborn child;
- (d) refer the matter to another community-based child and family service or to a service agency to provide advice, services and support to the mother of the unborn child.

Children, Youth and Families Act 2005 — Sect. 34. Is the report about a child in need of protection?

Children, Youth and Families Act 2005 (Vic) s. 34. (Austral.)

If the Secretary receives a report under section 28 or 33(2) and the Secretary considers that the child may be in need of protection, the Secretary may determine that the report is a protective intervention report for the purposes of this Act.

Editor's Note - See: [Children, Youth and Families Act 2005 – Sect. 162. When is a child in need of protection?](#)

Children, Youth and Families Act 2005 — Sect. 35. Who may the Secretary consult?

Children, Youth and Families Act 2005 (Vic) s. 35. (Austral.)

- (1) If the Secretary receives a report under this Part, the Secretary may—
 - (a) consult with a community service, a service agency or an information holder; and
 - (b) provide information about the child or family or the mother of the unborn child to, and receive information about them from, that service, agency or information holder.
- (2) A consultation or a disclosure of information under this section may only be for the purpose of—
 - (a) seeking advice on or assessing a risk to a child; or
 - (b) seeking advice on or determining which community-based child and family service or service agency is an appropriate body to provide assistance for the child or the family of the child or the mother of the unborn child.

Children, Youth and Families Act 2005 — Sect. 36. Who may the community-based child and family service consult?

Children, Youth and Families Act 2005 (Vic) s. 36. (Austral.)

- (1) This section applies if a community-based child and family service receives a referral under this Part.
- (2) The community-based child and family service may, for the purpose of assessing a risk to a child, consult with any of the following—
 - (a) the Secretary;
 - (b) a community service;
 - (c) a service agency;

	<p>(d) an information holder.</p> <p>(3) The community-based child and family service may, for the purpose of determining which community-based child and family service or service agency is an appropriate body to provide assistance for the child or the family of the child or the mother of the unborn child, consult with any of the following—</p> <ul style="list-style-type: none"> (a) the Secretary; (b) a community service; (c) a service agency. <p>(4) For the purpose only of a consultation under this section, a community-based child and family service may disclose information about the child or family to, and receive information about them from, the person or body permitted to be consulted.</p> <p>(5) A community-based child and family service or other community service to which information is disclosed under this Part must not disclose that information to any other person except in accordance with this Part. 60 penalty units.</p> <p><i>Note to s. 36(5) inserted by No. 23/2017 s. 32(1): See also Part 5A of the Family Violence Protection Act 2008 in respect of the use and disclosure obligations of persons or bodies prescribed to be information sharing entities under that Act.</i></p> <p>Children, Youth and Families Act 2005 — Sect. 37. Disclosers protected. <i>Children, Youth and Families Act 2005 (Vic) s. 37. (Austral.)</i></p> <p>A disclosure of information made under section 35 or 36 in good faith—</p> <ul style="list-style-type: none"> (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics on the part of the person by whom it is made; and (b) does not make the person by whom it is made subject to any liability in respect of it; and (c) without limiting paragraphs (a) and (b), does not constitute a contravention of— <ul style="list-style-type: none"> (i) section 141 of the Health Services Act 1988; or (ii) section 346 of the Mental Health Act 2014. <p>Children, Youth and Families Act 2005 — Sect. 40. Reporters and referrers protected. <i>Children, Youth and Families Act 2005 (Vic) s. 40. (Austral.)</i></p> <p>A report to the Secretary under section 28 or 29 or a referral to a community-based child and family service under section 31 or 32 if made in good faith—</p> <ul style="list-style-type: none"> (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics on the part of the person by whom it is made; and (b) does not make the person by whom it is made subject to any liability in respect of it; and (c) without limiting paragraphs (a) and (b), does not constitute a contravention of— <ul style="list-style-type: none"> (i) section 141 of the Health Services Act 1988; or (ii) section 346 of the Mental Health Act 2014. <p>Children, Youth and Families Act 2005 — Sect. 41. Identity of reporter or referrer confidential. <i>Children, Youth and Families Act 2005 (Vic) s. 41. (Austral.)</i></p> <p>(1) If a report is made to the Secretary under section 28 or 29, a person (other than the person who made it) must not disclose to any person other than the Secretary</p>
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or a community-based child and family service to which the matter is referred under section 30—

- (a) the name of the person who made the report; and
- (b) any information that is likely to lead to the identification of the person who made the report.

60 penalty units.

(1A) If a referral is made to a community-based child and family service under section 31 or 32, a person (other than the person who made it) must not disclose to any person other than the Secretary or that community-based child and family service—

- (a) the name of the person who made the referral; and
- (b) any information that is likely to lead to the identification of the person who made the referral.

60 penalty units.

(2) Subsection (1) does not apply if the person who made the report or referral—

- (a) gives written consent to the Secretary; or
- (b) gives written or oral consent to the community-based child and family service.

Children, Youth and Families Act 2005 — Sect. 181. Who is a protective intervener?

Children, Youth and Families Act 2005 (Vic) s. 181. (Austral.)

For the purposes of this Act the following persons are protective interveners—

- (a) the Secretary;
- (b) all police officers.

Children, Youth and Families Act 2005 — Sect. 182. Who is a mandatory reporter?

Children, Youth and Families Act 2005 (Vic) s. 182. (Austral.)

(1) The following persons are mandatory reporters for the purposes of this Act—

- (a) a registered medical practitioner;
- (b) a nurse;
- (ba) a midwife;
- (c) a person who is registered as a teacher or an early childhood teacher under the **Education and Training Reform Act 2006** or has been granted permission to teach under that Act;
- (d) the principal of a Government school or a non-Government school within the meaning of the **Education and Training Reform Act 2006**;
- (e) a police officer;
- (f) on and from the relevant date, the proprietor of, or a person with a post-secondary qualification in the care, education or minding of children who is employed by, a children's service to which the **Children's Services Act 1996** applies or a person who is a nominee within the meaning of that Act for the children's service;
- (fa) on and from the relevant date, the approved provider or nominated supervisor of, or a person with a post-secondary qualification in the care, education or minding of children who is employed or engaged by an education and care service within the meaning of the Education and Care Services National Law (Victoria);
- (g) on and from the relevant date, a person with a post-secondary qualification in youth, social or welfare work who works in the health, education or community or welfare services field and who is not referred to in paragraph (h);

- (h) on and from the relevant date, a person employed under Part 3 of the **Public Administration Act 2004** to perform the duties of a youth and child welfare worker;
- (i) on and from the relevant date, a registered psychologist;
- (j) on and from the relevant date, a youth justice officer;
- (k) on and from the relevant date, a youth parole officer;
- (l) on and from the relevant date, a member of a prescribed class of persons.

(2) In paragraph (f), (fa), (g), (h), (i), (j), (k) or (l) of subsection (1) **the relevant date**, in relation to a person or class of persons referred to in that paragraph, means the date fixed for the purposes of that paragraph by an Order made by the Governor in Council and published in the Government Gazette.

(3) In the case of subsection (1)(l), different dates may be fixed by Order in Council for the purposes of different prescribed classes of persons.

Children, Youth and Families Act 2005 — Sect. 183. Report to protective intervener.

Children, Youth and Families Act 2005 (Vic) s. 183. (Austral.)

Any person who believes on reasonable grounds that a child is in need of protection may report to a protective intervener that belief and the reasonable grounds for it.

Children, Youth and Families Act 2005 — Sect. 184. Mandatory reporting.

Children, Youth and Families Act 2005 (Vic) s. 184. (Austral.)

(1) A mandatory reporter who, in the course of practising his or her profession or carrying out the duties of his or her office, position or employment as set out in section 182, forms the belief on reasonable grounds that a child is in need of protection on a ground referred to in section 162(1)(c) or 162(1)(d) must report to the Secretary that belief and the reasonable grounds for it as soon as practicable—

- (a) after forming the belief; and
- (b) after each occasion on which he or she becomes aware of any further reasonable grounds for the belief.

10 penalty units.

(2) It is a defence to a charge under subsection (1) for the person charged to prove that he or she honestly and reasonably believed that all of the reasonable grounds for his or her belief had been the subject of a report to the Secretary made by another person.

(3) The requirement imposed by subsection (1)(b) applies to a mandatory reporter referred to in paragraph (f) to (l) of section 182(1) even if his or her belief was first formed before the relevant date under section 182(1) for that paragraph.

(4) For the purposes of this section, a belief is a belief on reasonable grounds if a reasonable person practising the profession or carrying out the duties of the office, position or employment, as the case requires, would have formed the belief on those grounds.

Children, Youth and Families Act 2005 — Sect. 185. Report on child in need of therapeutic treatment.

Children, Youth and Families Act 2005 (Vic) s. 185. (Austral.)

Any person who believes on reasonable grounds that a child who is 10 years of age or over but under 15 years of age is in need of therapeutic treatment (as defined in section 244) may report to the Secretary that belief and the reasonable grounds for it.

Children, Youth and Families Act 2005 — Sect. 186. Grounds for belief.

Children, Youth and Families Act 2005 (Vic) s. 186. (Austral.)

Grounds for a belief referred to in this Division are—

- (a) matters of which a person has become aware; and
- (b) any opinions based on those matters.

Children, Youth and Families Act 2005 — Sect. 187. Determination by Secretary about report.

Children, Youth and Families Act 2005 (Vic) s. 187. (Austral.)

- (1) If a report is made to the Secretary under section 183 or 184, the Secretary may—
 - (a) provide advice to the person who made the report; or
 - (b) determine that the report is a protective intervention report for the purposes of this Act; or
 - (c) determine that the report should be dealt with as a report to the Secretary under section 28.
- (2) If the Secretary makes a determination under subsection (1)(c), the report may be dealt with under this Act as if it were a report to the Secretary under section 28.
- (3) If a report contains information that must be disclosed under section 327 of the **Crimes Act 1958**, the Secretary must report the information to a police officer as soon as practicable after receiving the report.

Children, Youth and Families Act 2005 — Sect. 188. Record of report.

Children, Youth and Families Act 2005 (Vic) s. 188. (Austral.)

The Secretary must keep a written record of each report made to the Secretary under this Division.

Children, Youth and Families Act 2005 — Sect. 189. Reporters protected.

Children, Youth and Families Act 2005 (Vic) s. 189. (Austral.)

- A report made under Division 2 in good faith—
- (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics on the part of the person by whom it is made; and
 - (b) does not make the person by whom it is made subject to any liability in respect of it; and
 - (c) without limiting paragraphs (a) and (b), does not constitute a contravention of—
 - (i) section 141 of the **Health Services Act 1988**; or
 - (ii) section 346 of the **Mental Health Act 2014**.

Children, Youth and Families Act 2005 — Sect. 190. Evidence and legal proceedings.

Children, Youth and Families Act 2005 (Vic) s. 190. (Austral.)

- (1) In any legal proceeding evidence may be given as to the grounds contained in—
 - (a) a report under section 183 or 184 or a report determined to be a protective intervention report under section 34; or
 - (b) a report under section 185 that a child is in need of therapeutic treatment.
- (2) However in a legal proceeding evidence that a particular matter is contained in a

report referred to in subsection (1) or evidence that identifies the person who made that report as the reporter, or is likely to lead to the identification of that person as the reporter is only admissible in the proceeding if—

- (a) the court or tribunal grants leave for the evidence to be given; or
- (b) the reporter consents in writing to the admission of that evidence.

(3) A witness appearing in a legal proceeding must not be asked and, if asked, is entitled to refuse to answer—

- (a) any question to which the answer would or might identify the person who made a report referred to in subsection (1) as the reporter or would or might lead to the identification of that person as the reporter; or
- (b) any question as to whether a particular matter is contained in a report referred to in subsection (1)—

unless the court or tribunal grants leave for the question to be asked or the reporter has consented in writing to the question being asked.

(4) A court or tribunal may only grant leave under subsection (2) or (3) if—

- (a) in the case of a proceeding in the Court or in any other court arising out of a proceeding in the Court or in VCAT on a review under section 333, it is satisfied that it is necessary for the evidence to be given to ensure the safety and wellbeing of the child;
- (b) in any other case, it is satisfied that the interests of justice require that the evidence be given.

Children, Youth and Families Act 2005 — Sect. 191. Confidentiality.

Children, Youth and Families Act 2005 (Vic) s. 191. (Austral.)

(1) If a report referred to in section 190(1) is made, a person (other than the person who made it or a person acting with the written consent of the person who made it) must not disclose to any person other than a protective intervener or a community-based child and family service in accordance with subsection (4)—

- (a) the name of the person who made the report; or
 - (b) any information that is likely to lead to the identification of the person who made the report.
- 10 penalty units.

(2) Subsection (1) does not apply to a disclosure made to a court or tribunal in accordance with section 190.

(3) Subsection (1) does not apply to a disclosure to the Therapeutic Treatment Board of the name or information leading to the identification of a police officer who made a report under section 185.

(4) If a report is made to the Secretary under section 183 or 184, the information referred to in subsection (1) may be disclosed to a community-based child and family service if—

- (a) the Secretary has made a determination under section 187(1)(c) in respect of the report; and
- (b) the matter is referred to the community-based child and family service under section 30.

(5) A community-based child and family service to which information referred to in subsection (1) is disclosed must not disclose that information to any other person except in accordance with this Part.

60 penalty units.

Crimes Act 1958 — Sect. 327. Failure to disclose sexual offence committed against child under the age of 16 years.

Crimes Act 1958 (Vic) s. 327. (Austral.)

(1) In this section—

interests includes reputation, legal liability and financial status;

organisation includes a body corporate or an unincorporated body or association, whether the body or association—

- (a) is based in or outside Australia; or
- (b) is part of a larger organisation;

sexual offence means—

- (a) an offence committed under Subdivision (8A), (8B), (8C), (8E), (8F) or (8FA) of Division 1 of Part I on or after 1 July 2017; or
- (b) an offence committed under Subdivision (8D) of Division 1 of Part I on or after 1 July 2017 other than an offence that only relates to child abuse material of a kind described in paragraph (a)(i)(A) of the definition of **child abuse material** in section 51A(1), where the torture, cruelty or abuse is not sexual; or

Example

An offence committed under Subdivision (8D) of Division 1 of Part I that relates to child abuse material that depicts or describes a child as a victim of sexual abuse.

- (c) an offence committed before 1 July 2017 under Subdivision (8A), (8B), (8C), (8D), (8E) or (8EAA) as then in force; or
- (d) an attempt to commit an offence referred to in paragraph (a), (b) or (c); or
- (e) an assault with intent to commit an offence referred to in paragraph (a), (b) or (c).

(2) Subject to subsections (5) and (7), a person of or over the age of 18 years (whether in Victoria or elsewhere) who has information that leads the person to form a reasonable belief that a sexual offence has been committed in Victoria against a child under the age of 16 years by another person of or over the age of 18 years must disclose that information to a police officer as soon as it is practicable to do so, unless the person has a reasonable excuse for not doing so.

Penalty: 3 years imprisonment.

(3) For the purposes of subsection (2) and without limiting that subsection, a person has a reasonable excuse for failing to comply with that subsection if—

- (a) the person fears on reasonable grounds for the safety of any person (other than the person reasonably believed to have committed, or to have been involved in, the sexual offence) were the person to disclose the information to police (irrespective of whether the fear arises because of the fact of disclosure or the information disclosed) and the failure to disclose the information to police is a reasonable response in the circumstances; or
- (b) the person believes on reasonable grounds that the information has already been disclosed to police by another person and the firstmentioned person has no further information.

Example

A person may believe on reasonable grounds that the information has already been disclosed to police by another person if the person has made a report disclosing all of the information in his or her possession in compliance with mandatory reporting obligations under the **Children, Youth and**

Families Act 2005.

(4) For the purposes of subsection (2) and without limiting that subsection, a person does not have a reasonable excuse for failing to comply with that subsection only because the person is concerned for the perceived interests of—

- (a) the person reasonably believed to have committed, or to have been involved in, the sexual offence; or
- (b) any organisation.

(5) A person does not contravene subsection (2) if—

- (a) the information forming the basis of the person's belief that a sexual offence has been committed came from the victim of the alleged offence, whether directly or indirectly; and
- (b) the victim was of or over the age of 16 years at the time of providing that information to any person; and
- (c) the victim requested that the information not be disclosed.

(6) Subsection (5) does not apply if—

- (a) at the time of providing the information, the victim of the alleged sexual offence—
 - (i) has an intellectual disability (within the meaning of the **Disability Act 2006**); and
 - (ii) does not have the capacity to make an informed decision about whether or not the information should be disclosed; and
- (b) the person to whom the information is provided is aware, or ought reasonably to have been aware, of those facts.

(7) A person does not contravene subsection (2) if—

- (a) the person comes into possession of the information referred to in subsection (2) when a child; or
- (b) the information referred to in subsection (2) would be privileged under Part 3.10 of Chapter 3 of the **Evidence Act 2008**; or
- (c) the information referred to in subsection (2) is a confidential communication within the meaning of section 32B of the **Evidence (Miscellaneous Provisions) Act 1958**; or
- (d) the person comes into possession of the information referred to in subsection (2) solely through the public domain or forms the belief referred to in subsection (2) solely from information in the public domain; or
- (e) the person is a police officer acting in the course of his or her duty in respect of the victim of the alleged sexual offence; or
- (f) the victim of the alleged sexual offence has attained the age of 16 years before the commencement of section 4 of the **Crimes Amendment (Protection of Children) Act 2014**.

(8) A prosecution for an offence under subsection (2) must not be commenced without the consent of the Director of Public Prosecutions.

(9) In determining whether to consent to a prosecution for an offence under subsection (2), the Director of Public Prosecutions must consider whether the alleged offender has been subjected to family violence (within the meaning of the **Family Violence Protection Act 2008**) that is relevant to the circumstances in which the offence is alleged to have been committed.

Crimes Act 1958 — Sect. 328. Protection of those who disclose under section 327.

Crimes Act 1958 (Vic) s. 328. (Austral.)

A disclosure made under section 327(2) in good faith—

- (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics on the part of the person by whom it is made; and
- (b) does not make the person by whom it is made subject to any liability in respect of it; and
- (c) without limiting paragraphs (a) and (b), does not constitute a contravention of—
 - (i) section 141 of the **Health Services Act 1988**; or
 - (ii) section 346 of the **Mental Health Act 2014**.

Crimes Act 1958 — Sect. 329. Evidence and legal proceedings.

Crimes Act 1958 (Vic) s. 329. (Austral.)

(1) In any legal proceeding evidence may be given as to the information contained in a disclosure under section 327(2).

(2) However in a legal proceeding evidence that a particular matter is contained in information disclosed under section 327(2) or evidence that identifies the person who made that disclosure, or is likely to lead to the identification of that person is only admissible in the proceeding if—

- (a) the court or tribunal grants leave for the evidence to be given; or
- (b) the person who made the disclosure consents in writing to the admission of that evidence.

(3) A witness appearing in a legal proceeding must not be asked and, if asked, is entitled to refuse to answer—

- (a) any question to which the answer would or might identify the person who made a disclosure under section 327(2) or would or might lead to the identification of that person; or
- (b) any question as to whether a particular matter is contained in information disclosed under section 327(2)—
unless the court or tribunal grants leave for the question to be asked or the person who made the disclosure has consented in writing to the question being asked.

(4) A court or tribunal may only grant leave under subsection (2) or (3) if it is satisfied that the interests of justice require that the evidence be given.

Crimes Act 1958 — Sect. 330. Confidentiality.

Crimes Act 1958 (Vic) s. 330. (Austral.)

(1) If a disclosure is made under section 327(2), a person (other than the person who made it or a person acting with the written consent of the person who made it) must not disclose to any person other than a police officer or the Secretary (within the meaning of the **Children, Youth and Families Act 2005**) or any other person to the extent reasonably required for law enforcement purposes—

- (a) the name of the person who made the disclosure; or
- (b) any information that is likely to lead to the identification of the person who made the disclosure.

Penalty: Level 8 imprisonment (1 year maximum).

(1A) An offence against subsection (1) is a summary offence.

(2) Subsection (1) does not apply to a disclosure made to a court or tribunal in accordance with section 329.

(3) Part 4.4 of Chapter 4 of the **Children, Youth and Families Act 2005** applies to information disclosed under subsection (1) to the Secretary (within the meaning of that Act) as if it were a report under Division 2 of that Part

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[Family Court Act
1997 \(WA\) s. 5.
\(Austl.\) - Terms
Used](#)

[Child and
Community
Services Act 2004
\(WA\) s.3. \(Austl.\)
- Terms Used](#)

[Child and
Community
Services Act 2004
\(WA\) s.124A.
\(Austl.\) - Terms
Used](#)

Family Court Act 1997 — Sect. 159. Where interested person in proceedings makes allegation of child abuse — FLA s. 67Z.

Family Court Act 1997 (WA) s.159. (Austl.)

(1A) In this section —

interested person, in proceedings under this Act, means —

- (a) a party to the proceedings; or
- (b) an independent children’s lawyer who represents the interests of a child in the proceedings; or
- (c) any other person prescribed by the regulations for the purposes of this paragraph;

prescribed form means the form approved by the Chief Judge of the Court for the purposes of this section.

(1) If an interested person in proceedings under this Act alleges that a child to whom the proceedings relate has been abused or is at risk of being abused then the interested person must —

- (a) file a notice in the prescribed form in the court hearing the proceedings; and
- (b) serve a copy of the notice upon the person who is alleged to have abused the child or from whom the child is alleged to be at risk of abuse.

(2) If a notice under subsection (1) is filed in a court, the registrar of the court must, as soon as practicable, notify the CEO.

(3) If a registrar notifies the CEO under subsection (2) the registrar may make such disclosures of other information as the registrar reasonably believes are necessary to enable the CEO to properly manage the matter the subject of the notification.

Family Court Act 1997 — Sect. 160. Where member of Court personnel, family counsellor, family dispute resolution practitioner or arbitrator suspects child abuse etc. — FLA s. 67ZA.

Family Court Act 1997 (WA) s.160. (Austl.)

(1) This section applies to a person in the course of performing duties or functions, or exercising powers, as —

- (a) the Principal Registrar, a registrar or a deputy registrar; or
- (b) a family consultant; or
- (c) a family counsellor; or
- (d) a family dispute resolution practitioner; or
- (e) an arbitrator; or
- (f) a legal practitioner independently representing a child’s interests.

(2) If a person referred to in subsection (1) has reasonable grounds for suspecting that a child has been abused, or is at risk of being abused, the person must, as soon as practicable, notify the CEO of the suspicion and the basis for the suspicion.

(3) If a person referred to in subsection (1) has reasonable grounds for suspecting that a child —

- (a) has been ill treated, or is at risk of being ill treated; or
- (b) has been exposed or subjected, or is at risk of being exposed or subjected, to behaviour which psychologically harms the child, the person may notify the CEO of the suspicion and the basis for the suspicion.

(4) If a person mentioned in subsection (1) knows that the CEO has previously been notified under subsection (2) or section 159(2) that a child has been abused or is at

risk of being abused —

- (a) the person need not notify the CEO of a suspicion that the child has been abused or is at risk of being abused; but
- (b) the person may notify the CEO of the suspicion.

(5) If notice under this section is given orally, written notice confirming the oral notice is to be given to the CEO as soon as practicable after the oral notice.

(6) If a person referred to in subsection (1) notifies the CEO under this section the person may make such disclosures of other information as the person reasonably believes are necessary to enable the CEO to properly manage the matter the subject of the notification.

Family Court Act 1997 — Sect. 161. No liability for notification under section 159 or 160 — FLA s. 67ZB.

Family Court Act 1997 (WA) s.161. (Austrl.)

(1) A person —

- (a) must notify the CEO under section 159(2) or 160(2); or
- (b) may notify the CEO under section 160(3) or (4); or
- (c) may disclose other information under section 159(3) or 160(6), despite any obligation of confidentiality imposed on the person by this Act, any other written law, any other law or anything else (including a contract or professional ethics).

(2) A person is not liable in civil or criminal proceedings, and is not to be considered to have breached any professional ethics, in respect of a notification under section 159(2) or 160(2).

(3) A person is not liable in civil or criminal proceedings, and is not to be considered to have breached any professional ethics, in respect of a notification under section 160(3) or (4), or a disclosure under section 159(3) or 160(6), if the notification or disclosure is made in good faith.

(4) Evidence of a notification under section 159(2) or section 160(2), (3) or (4), or a disclosure under section 159(3) or 160(6), is not admissible in any court except where that evidence is given by the person who made the notification or disclosure.

(5) In this section —

court means a court (whether of a kind referred to in section 8(a) or (b) or otherwise) and includes a board, tribunal or other body concerned with professional ethics.

Family Court Act 1997 — Sect. 202H. Rules of evidence not to apply unless court decides — FLA s. 69ZT.

Family Court Act 1997 (WA) s.202H. (Austrl.)

(1) The excluded rules of evidence do not apply to child-related proceedings.

(2) A court may give such weight (if any) as it thinks fit to evidence admitted as a consequence of a provision of the [Evidence Act 1906](#) or the rules of evidence not applying because of subsection (1).

(3) Despite subsection (1), a court may decide to apply one or more of the excluded rules of evidence to an issue in the proceedings, if —

- (a) the court is satisfied that the circumstances are exceptional; and
- (b) the court has taken into account (in addition to any other matters the

	<p>court thinks relevant) —</p> <ul style="list-style-type: none"> (i) the importance of the evidence in the proceedings; and (ii) the nature of the subject matter of the proceedings; and (iii) the probative value of the evidence; and (iv) the powers of the court (if any) to adjourn the hearing, to make another order or to give a direction in relation to the evidence. <p>(4) If a court decides to apply an excluded rule of evidence to an issue in the proceedings, the court may give such weight (if any) as it thinks fit to evidence admitted as a consequence of the application of the excluded rule of evidence.</p> <p>(5) Subsection (1) does not revive the operation of —</p> <ul style="list-style-type: none"> (a) a rule of common law; or (b) any written law, that, but for subsection (1), would have been prevented from operating because of an excluded rule of evidence. <p>(6) In this section —</p> <p>child-related proceedings includes proceedings that are child-related proceedings within the meaning of the Family Law Act;</p> <p>excluded rules of evidence means such provisions of the Evidence Act 1906 and the rules of evidence as most closely correspond to the provisions of the Evidence Act 1995 of the Commonwealth referred to in section 69ZT of the Family Law Act.</p> <p>Family Court Act 1997 — Sect. 202K. Evidence relating to child abuse or family violence. — FLA s. 69ZW. <i>Family Court Act 1997 (WA) s.202K. (Austral.)</i></p> <p>(1) A court may make an order in child-related proceedings requiring a prescribed government agency to provide the court with the documents or information specified in the order.</p> <p>(2) The documents or information specified in the order must be documents recording, or information about, one or more of the following —</p> <ul style="list-style-type: none"> (a) any notifications to the prescribed government agency of suspected abuse of a child to whom the proceedings relate or of suspected family violence affecting the child; (b) any assessments by the agency of investigations into a notification of that kind or the findings or outcomes of those investigations; (c) any reports commissioned by the agency in the course of investigating a notification. <p>(3) Nothing in the order is to be taken to require a prescribed government agency to provide the court with —</p> <ul style="list-style-type: none"> (a) documents or information not in the possession or control of the agency; or (b) documents or information that include the identity of the person who made a notification. <p>(4) A written law has no effect to the extent that it would, apart from this subsection, hinder or prevent a prescribed government agency complying with the order.</p> <p>(5) A court must admit into evidence any documents or information, provided in response to the order, on which the court intends to rely.</p> <p>(6) Despite subsection (5), a court must not disclose the identity of the person who made a notification, or information that could identify that person, unless —</p> <ul style="list-style-type: none"> (a) the person consents to the disclosure; or
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(b) the court is satisfied that the identity or information is critically important to the proceedings and that failure to make the disclosure would prejudice the proper administration of justice.

(7) Before making a disclosure for the reasons in subsection (6)(b), a court must ensure that a prescribed government agency that provided the identity or information —

- (a) is notified about the intended disclosure; and
- (b) is given an opportunity to respond.

(8) In this section —

prescribed government agency means —

- (a) a department; or
- (b) a State agency or instrumentality; or
- (c) a body (whether incorporated or not) or the holder of an office, post or position, established or continued by or under a written law for a public purpose, prescribed for the purpose of this section.

Children and Community Services Act 2004 — Sect. 124B. Duty of certain people to report sexual abuse of children.

Children and Community Services Act 2004 (WA) s.124B. (Austral.)

(1) A person who —

- (a) is a doctor, nurse, midwife, police officer, teacher or boarding supervisor; and
- (b) believes on reasonable grounds that a child —
 - (i) has been the subject of sexual abuse that occurred on or after commencement day; or
 - (ii) is the subject of ongoing sexual abuse; and
- (c) forms the belief —
 - (i) in the course of the person's work (whether paid or unpaid) as a doctor, nurse, midwife, police officer, teacher or boarding supervisor; and
 - (ii) on or after commencement day, must report the belief as soon as practicable after forming the belief.

Penalty: a fine of \$6 000.

(2) For the purposes of subsection (1) the report must be made to —

- (a) the CEO; or
- (b) a person approved by the CEO; or
- (c) a person who is a member of a class of persons approved by the CEO.

(3) In a prosecution for an offence under subsection (1) it is a defence for the person charged to prove that he or she honestly and reasonably believed that —

- (a) all of the reasonable grounds for his or her belief were the subject of a report made by another person; or
- (b) the CEO had caused, or was causing, inquiries to be made under section 31 about the child's wellbeing; or
- (c) the CEO had taken, or was taking, action under section 32 in respect of the child's wellbeing.

(4) A requirement that a person has under subsection (1) is in addition to, and does not affect, any other function that the person has in respect of the child in the course of the person's work as a doctor, nurse, midwife, police officer, teacher or boarding supervisor.

Children and Community Services Act 2004 — Sect. 124C. Reports under s.124 B, form and content of.

Children and Community Services Act 2004 (WA) s.124C. (Austrl.)

(1) A report may be written or oral but if oral the reporter must make a written report as soon as practicable after the oral report is made.

Penalty: a fine of \$3 000.

(2) A written report may, but does not need to be, in a form approved by the CEO.

(3) A report is to contain —

- (a) the name and contact details of the reporter; and
- (b) the name of the child or, if the child's name cannot be obtained after reasonable inquiries, a description of the child; and
- (c) if, or to the extent, known to the reporter —
 - (i) the child's date of birth; and
 - (ii) information about where the child lives; and
 - (iii) the names of the child's parents or other appropriate persons as defined in section 41(1); and
- (d) the grounds for the reporter's belief that the child has been the subject of sexual abuse or is the subject of ongoing sexual abuse; and
- (ea) if, or to the extent, known to the reporter —
 - (i) the name of any person alleged to be responsible for the sexual abuse; and
 - (ii) the person's contact details; and
 - (iii) the person's relationship to the child; and
- (e) any other information that is prescribed.

(4) A person mentioned in section 124B(2)(b) or (c) who receives —

- (a) a written report must give the report to the CEO as soon as practicable after receiving it; or
- (b) an oral report must inform the CEO of the contents of the report as soon as practicable after receiving it.

Penalty: a fine of \$6 000.

(5) As soon as practicable after receiving a written report the CEO must advise the reporter of the receipt.

Children and Community Services Act 2004 — Sect. 124F. Confidentiality of reporter's identity.

Children and Community Services Act 2004 (WA) s.124F. (Austrl.)

(1) In this section —

child means the child about whom a report is made by the reporter, being the child believed by the reporter to be the subject of sexual abuse.

(2) A person who, in the course of duty, becomes aware of the identity of a reporter, must not disclose identifying information to another person unless —

- (a) the disclosure is made for the purpose of, or in connection with, performing functions under this Act; or
- (b) the disclosure is made with the written consent of the reporter; or
- (c) the disclosure is made to or by a police officer for the purpose of, or in connection with —
 - (i) an investigation of a suspected offence under a written law in relation to the child; or
 - (ii) the conduct of a prosecution of an offence under a written law in relation to the child; or
 - (d) the disclosure is made for the purpose of, or in connection with,

the prosecution of an offence —

- (i) in relation to the reporter, under —
 - (I) section 124B(1) in the case where a report is made; or
 - (II) section 124C(1) or 124F(2); or
- (ii) under section 124C(4) or 244 in relation to the report; or

(e) the disclosure is made by an officer for the purposes of protection proceedings in relation to the child; or

(f) the disclosure is made by an officer for the purposes of an application under section 94 for the review of a decision relating to the child; or

(g) the disclosure is made by an officer for the purposes of a matter or proceedings relating to the child arising under the *Family Law Act 1975* of the Commonwealth Part VII or the *Family Court Act 1997* Part 5; or

(h) the disclosure is made by an officer for the purposes of an application to, or appeal from a decision of, the Family Court under the *Adoption Act 1994* that relates to the child; or

(i) the disclosure is made by an officer for the purposes of any other legal proceedings of a kind prescribed for the purposes of this subsection and relating to the child; or

(j) the disclosure is made in legal proceedings with the leave of the court or tribunal concerned; or

(k) the identifying information has already been disclosed in legal proceedings and the court or tribunal concerned has not made an order prohibiting further disclosure.

Penalty: a fine of \$24 000 and imprisonment for 2 years

Children and Community Services Act 2004 — Sect. 124G. Evidence and legal proceedings.

Children and Community Services Act 2004 (WA) s.124G. (Austral.)

(1) A written report or a written record as to the contents of an oral report is to be taken to be a document that is not required to be disclosed under the *Criminal Procedure Act 2004* section 35, 42, 61, 62, 95 or 96 unless —

- (a) the proceedings are for the prosecution of an offence mentioned in section 124F(2)(d); or
- (b) the court concerned orders otherwise.

(2) A party to any legal proceedings cannot require a person to produce to the party, or the court or tribunal concerned, a report or evidence of the contents of a report unless —

- (a) the proceedings are for the prosecution of an offence mentioned in section 124F(2)(d); or
- (b) the court or tribunal concerned gives leave to do so.

(3) A report or evidence of the contents of a report is not admissible in any legal proceedings unless —

- (a) the proceedings are for the prosecution of an offence mentioned in section 124F(2)(d); or
- (b) the report or the evidence of the contents of the report is given by an officer and the proceedings are of a kind mentioned in section 124F(2)(e) to (i) inclusive; or
- (c) the court or tribunal concerned orders otherwise.

(4) In any legal proceedings a person must not be asked and, if asked, is entitled to refuse to answer, any question the answer to which would give identifying information in relation to a reporter unless —

- (a) the proceedings are for the prosecution of an offence mentioned in section 124F(2)(d); or
- (b) the person is an officer and the proceedings are of a kind mentioned in

section 124F(2)(e) to (i) inclusive; or
(c) the court or tribunal concerned gives leave to do so.

(5) In any legal proceedings a person must not be asked and, if asked, is entitled to refuse to answer, any question as to whether a particular matter is the subject of a report unless —

- (a) the proceedings are for the prosecution of an offence mentioned in section 124F(2)(d); or
- (b) the person is an officer and the proceedings are of a kind mentioned in section 124F(2)(e) to (i) inclusive; or
- (c) the court or tribunal concerned gives leave to do so.

(6) Any other evidence as to identifying information in relation to a reporter must not be adduced in any legal proceedings unless —

- (a) the proceedings are for the prosecution of an offence mentioned in section 124F(2)(d); or
- (b) the evidence is adduced by an officer and the proceedings are of a kind mentioned in section 124F(2)(e) to (i) inclusive; or
- (c) the court or tribunal concerned orders otherwise.

Children and Community Services Act 2004 — Sect. 124H. Orders, leave of courts etc. under s. 124F or 124G.

Children and Community Services Act 2004 (WA) s.124H. (Austral.)

(1) In this section —

leave means leave for the purposes of section 124F(2)(j) or 124G(2)(b), (4)(c) or (5)(c);

order means an order for the purposes of section 124G(1)(b), (3)(c) or (6)(c).

(2) A court or tribunal must not make an order or grant leave unless —

- (a) it is satisfied that to safeguard and promote the wellbeing of the child about whom the report was made it is necessary for the order to be made or for the leave to be given; or
- (b) it is satisfied that —
 - (i) the identifying information, or the content of the report (as is relevant in the case) is of critical importance in the proceedings; and
 - (ii) there is compelling reason in the public interest for disclosure of the identifying information, or disclosure, production or adducing of the report or evidence (as is relevant in the case); or
- (c) in a case concerning the disclosure of identifying information in relation to a reporter, the reporter consents to the disclosure.

(3) The court or tribunal may make an order or grant leave on any condition that it thinks fit having regard to the need to prevent, as far as practicable, further disclosure of the information that is the subject of the order or leave.

(4) An application for an order or leave —

- (a) must not be heard in public; and
- (b) must be dealt with in a way that protects, as far as practicable, the identity of the reporter pending a decision on the application.