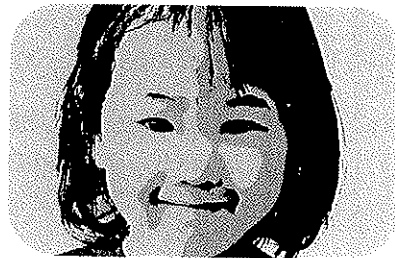


California Child Abuse and Neglect Reporting Law

2011



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California Child Abuse and Neglect Reporting Law

The first child abuse reporting law in California was enacted in 1963. That early law mandated only physicians to report physical abuse.

Over the years, numerous amendments have expanded the definition of reportable child abuse and the persons required to report it.

It is important for mandated reporters to keep updated on periodic amendments to the law. Your local Child Abuse Prevention Council or county welfare department has current reporting law information. Also visit www.leginfo.ca.gov for updated information on the law and any other code section referenced in this material.



The California Child Abuse and Neglect Reporting Law is currently found in **Penal Code (P.C.) Sections 11164 - 11174.3**. The following is only a partial description of the law. Mandated reporters should become familiar with the detailed requirements as they are set forth in the Penal Code.

Who Are Mandated Reporters?

P.C. 11165.7 defines "mandated reporters" as any of the following:

- 1) A teacher.
- 2) An instructional aide.
- 3) A teacher's aide or a teacher's assistant employed by any public or private school.
- 4) A classified employee of any public school.
- 5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
- 6) An administrator of a public or private day camp.
- 7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- 8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.



- 9) Any employee of a county office of education or the California Department of Education, whose duties bring the employee into contact with children on a regular basis.
- 10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- 11) A Head Start program teacher.
- 12) A licensing worker or licensing evaluator employed by a licensing agency as defined in P.C. 11165.11.
- 13) A public assistance worker.
- 14) An employee of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- 15) A social worker, probation officer, or parole officer.
- 16) An employee of a school district police or security department.
- 17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.
- 18) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
- 19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who is not otherwise described in P.C. 11165.7.
- 20) A firefighter, *except for volunteer firefighters*.
- 21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- 22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.
- 23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.
- 24) A marriage, family and child therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.

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- 35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the Rules of the Court.
- 36) A custodial officer as defined in Section 831.5 of the Penal Code.
- 37) Any person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.



38) An "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical services for a licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not in and of itself a sufficient basis for reporting child abuse or neglect.

NOTE: Unless otherwise stated, volunteers are not mandated reporters.

Why Must You Report?

The primary intent of the reporting law is to protect an abused child from further abuse. Protecting the identified child may also provide the opportunity to protect other children. It is equally important to provide help for the parents. Parents may be unable to ask for help directly, and child abuse may be their way of calling attention to family problems. The report of abuse may be a catalyst for bringing about change in the home environment, which in turn may help to lower the risk of abuse in the home.

What Do You Have To Report?

Under the law, when the victim is a child (a person under the age of 18) and the perpetrator is any person (including a child), the following types of abuse must be reported by all legally mandated reporters:

- a. A physical injury inflicted by other than accidental means upon a child. (P.C. 11165.6) Note that child abuse *does not* include a "mutual affray" between minors. It also *does not* include an injury caused by "reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment." (P.C. 11165.6)
- b. Sexual abuse of a child, including both sexual assault and sexual exploitation. "Sexual assault" includes sex acts with a child, lewd or lascivious acts with a child, and intentional masturbation in the presence of a child. "Sexual exploitation" includes preparing, selling, or distributing pornographic

materials involving children; employing a minor to perform in pornography; and employing or coercing a child to engage in prostitution. (P.C. 11165.1)

- c. Willful harming or injuring of a child or the endangering of the person or health of a child, including inflicting or permitting unjustifiable physical pain or mental suffering. (P.C. 11165.3)

NOTE: Any mandated reporter **may** report any child who is suffering serious emotional damage or is at substantial risk of suffering serious emotional damage. (P.C. 11166.05)

- d. Willful infliction of cruel or inhuman corporal punishment or injury resulting in a traumatic condition. (P.C. 11165.4)
- e. Neglect of a child, whether "severe" or "general," by a person responsible for the child's welfare. The term "neglect" includes both acts or omissions harming or threatening to harm the child's health or welfare. (P.C. 11165.2)

When Do You Have To Report?

Child abuse must be reported when a mandated reporter, "in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect." (P.C. 11166 (a))

"Reasonable suspicion" occurs when "it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect." (P.C. 11166 (a)(1)) Although wordy, the intent of this definition is clear: if you suspect that abuse has occurred, make a report.

You must make a report immediately (or as soon as practicably possible) by telephone and you must prepare and send, fax or electronically transmit a written report within 36 hours of receiving the information regarding the incident. (P.C. 11166 (a)) Written reports must be submitted on Department of Justice form (SS 8572), which can be downloaded from the California Attorney General's Web site at www.ag.ca.gov (click on Child Protection Program; click on forms; click on SS 8572). The mandated reporter may include with the report any nonprivileged documentary evidence he or she possesses related to the incident.

To Whom Must You Report?

The report must be made to any police department or sheriff's department (not including a school district police or security department), county probation department, if designated by the county to receive mandated reports, or county welfare department. (P.C. 11165.9)

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Any mandated reporter who knows or reasonably suspects that the home or institution in which the child resides is unsuitable for the child because of abuse or neglect shall inform the agency about the unsuitability of the home at the same time he or she reports the abuse or neglect. (P.C. 11166 (f))

When two or more persons who are required to report jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, a single person from the group may make the report. Any group member who knows that the report was not made, however, shall make the report. (P.C. 11166 (h))

Immunity

Mandated reporters have immunity from criminal and civil liability for any report required or authorized under the Child Abuse Reporting Law. This immunity applies even though the knowledge or reasonable suspicion of abuse was acquired outside his or her professional capacity or outside the scope of his or her employment. (P.C. 11172 (a)) And if a mandated reporter is sued for making a report, he or she may be able to receive compensation for legal fees incurred in defending against the action. (P.C. 11172 (c))

Any person who makes a report of child abuse, even though he or she is not a mandated reporter, has immunity unless the report is proven to be false and it is proven that the person either knew the report was false or made it with reckless disregard of its truth or falsity. (P.C. 11172 (a))

Additional Safeguards for Mandated Reporters

No supervisor or administrator may impede or inhibit a mandated reporter's reporting duties or subject the reporting person to any sanction for making a report. (P.C. 11166 (i)(1))

Any supervisor or administrator who violates the above cited code section is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000), by not more than six months in a county jail, or by both a fine and imprisonment. (P.C. 11166.01(a)) If however, death or great bodily injury happens to the child as a result of the abuse, the supervisor or administrator who impeded or inhibited the report is guilty of a misdemeanor punishable by not more than one year in a county jail, by a fine not to exceed five thousand dollars (\$5,000), or by both. (P.C. 11166.01(b))

The mandated reporter's identity is confidential and may only be disclosed to specified persons and agencies. (P.C. 11167 (d)(1))

Mandated reporters and others acting at their direction are not liable civilly or criminally for photographing the victim and including the photograph with their report. (P.C. 11172 (a))

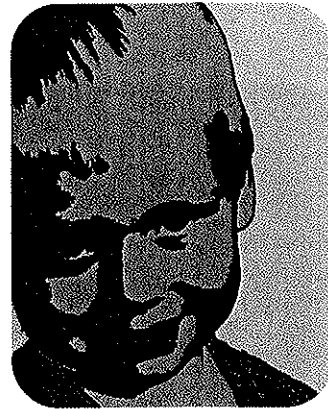
A clergy member who acquires knowledge or a reasonable suspicion of child abuse during a penitential communication is not mandated to report the abuse. For purposes of the Child Abuse Reporting Law, "penitential communication" means communication, intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member. (P.C. 11166 (d)(1))

Liability for Failure to Make A Required Report

A mandated reporter who fails to make a required report of child abuse is guilty of a misdemeanor punishable by up to six months in jail or by a \$1,000 fine or by both a fine and imprisonment.

(P.C. 11166 (c)) If however, death or great bodily injury happens to the child as a result of the abuse, the mandated reporter is guilty of a misdemeanor punishable by not more than one year in a county jail, by a fine not to exceed five thousand dollars (\$5,000), or by both. (P.C. 11166.01 (b)) He or she may also be found civilly liable for damages, especially if the child-victim or another child is further victimized because of the failure to report. (*Landeros v. Flood* (1976) 17 Cal.3d 399.)

If a mandated reporter conceals his or her failure to report abuse or "severe" neglect, the failure to report is a continuing offense until the failure is discovered by an agency specified in Section 11165.9. (P.C. 11166 (c)) Because it is a continuing offense, the statute of limitations does not start to run until the failure to report is discovered.



Responsibilities of Agencies Employing Mandated Reporters

On and after January 1, 1985, persons entering employment which makes them mandated reporters must sign statements, provided and retained by their employers, informing them that they are mandated reporters and advising them of their reporting responsibilities and of their confidentiality rights. (P.C. 11166.5 (a))

On and after January 1, 1993, any person who acts as a child visitation monitor, prior to engaging in monitoring the first visit in a case, shall sign a statement provided and retained by the court which ordered the monitor's presence to the effect that he or she has knowledge of the provisions of the Child Abuse Reporting Law and will comply with them. (P.C. 11166.5 (a))

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Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by the Child Abuse Reporting Law. Training in the duties imposed by the reporting law shall include training in child abuse identification and reporting. Whether or not employers provide their employees with training, they shall provide their employees who are mandated reporters with the statement required in subdivision (a) of Section 1166.5. **(P.C. 1165.7 (c))** The absence of training shall not excuse a mandated reporter from the duties imposed by the reporting law. **(P.C. 1165.7 (e))**

EXCEPTION: Any person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institution Code shall not be required to make a child abuse report unless that person has received training, or instructional material in the appropriate language, on the duties imposed by the Child Abuse Reporting Law, including identifying and reporting abuse and neglect. **(P.C. 1166.5 (e))**



Feedback to Mandated Reporters

After the investigation is completed or the matter reaches a final disposition, the investigating agency is obligated to inform the mandated reporter of the results of the investigation and any action the agency is taking with regards to the child or family. **(P.C. 11170 (b)(2))**

Changes in the law for 2007 are underlined. Please note that the California Child Abuse Reporting Law may have changed since the printing of this material. This material has been reprinted to assist mandated reporters in determining their reporting responsibilities. It is not intended to be and should not be considered legal advice. In the event there are questions about reporting responsibilities in a specific case, the advice of legal counsel should be sought.

A special thank you to Delta Dental of California for their work in developing the original material.

For additional information on child abuse prevention, you may contact:

*Crime and Violence Prevention Center
California Attorney General's Office
1300 I St., Suite 1150
(916) 324-7863
www.safestate.org*

GREATER BAY AREA
Child Abuse Prevention Councils

ALAMEDA COUNTY

To Report Child Abuse: 510-259-1800
Council Abuse Prevention Council:
510-780-8989
Parental Stress Hotline: 510-893-4444
www.accapc.com

CONTRA COSTA COUNTY

To Report Child Abuse: 877-881-1116
Child Abuse Prevention Council: 925-
798-0546 or 925-755-4200
www.capc-coco.org.

MARIN COUNTY

To report child abuse: 415-473-7153
Marin Child Abuse Prevention
Council: 415-507-9016
www.marinadvocates.org

MONTEREY COUNTY

To Report Child Abuse: 831-755-4661
Child Abuse Prevention Council:
831-755-4474

NAPA COUNTY

To Report Child Abuse: 707-253-4261
Child Abuse Prevention Council:
707-252-1123
24Hour Stress Hotline:
1-866-289-8888
www.copefamilycenter.org

SAN FRANCISCO COUNTY

To Report Child Abuse: 415-558-2650
Child Abuse Council: 415-668-0494
TALK Line: 415- 441-KIDS
www.sfcapc.org

SAN MATEO COUNTY

To Report Child Abuse: 650-595-7922
24 Hr. Parent Stress Warmline:
1-888-220-7575
Child Abuse Prevention Council:
www.smcccat.org

SANTA CLARA COUNTY

To Report Child Abuse:
San Jose Area: 408-299-2071
Gilroy/Morgan Hill Area:
408-683-0601
Palo Alto Area: 650-493-1186
Child Abuse Prevention Council:
408-293-5450

SANTA CRUZ COUNTY

To Report Child Abuse: 877-505-3299
Child Abuse Prevention Council:
831-479-5466
Parental Stress Line:
North: 831-426-7322
South: 831-724-2879

SOLANO COUNTY

To Report Child Abuse: 800-544-8696
Child Abuse Prevention Council:
707-421-7229
Solano Safequest: 866-4UR-SAFE or
707-422-7345

SONOMA COUNTY

To Report Child Abuse: 707-565-4304
or 800-870-7064
Prevent Child Abuse-Sonoma County:
707-585-6108
www.preventchildabuse-sonoma-
county.org

It Only Takes a Minute
to Make a Difference
in the Life
of a Child