

14. Duty to Report Child Abuse and Neglect

FAMILY LAW ARTICLE, §§5-701, 5-702, 5-704, 5-708, 5-711

§5-701. Definitions.

(a) *In general.* — Except as otherwise provided in § 5-705.1 of this subtitle, in this subtitle the following words have the meanings indicated.

(b) *Abuse.* —

(i) "Abuse" means:

(1) the physical or mental injury of a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child by any household or family member, or by any person who, because of the person's position or occupation, exercises authority over the child under circumstances that indicate that the child's health or welfare is harmed or at substantial risk of being harmed; or

(2) sexual abuse of a child, whether physical injuries are sustained or not; or

(3) labor trafficking of a child by any individual.

(ii) "Abuse" does not include the physical injury of a child by accidental means.

(c) *Administration.* — "Administration" means the Social Services Administration of the Department.

(d) *Centralized confidential database.* — "Central confidential database" means the Department's confidential computerized data system that contains information regarding child abuse and neglect investigations and assessments.

(e) *Child.* — "Child" means any individual under the age of 18 years.

(f) *Court.* — Repealed by Acts 2005, ch. 464, § 2, effective January 1, 2006.

(g) *Educator or human service worker.* —

(1) "Educator or human service worker" means any professional employee of any correctional, public, parochial or private educational, health, juvenile service, social or social service agency, institution, or licensed facility.

(2) "Educator or human service worker" includes:

(i) any teacher;

(ii) any counselor;

(iii) any social worker;

(iv) any caseworker; and

(v) any probation or parole officer.

(h) *Family member.* — "Family member" means a relative by blood, adoption, or marriage of a child.

(i) *Health practitioner.* —

(1) "Health practitioner" includes any person who is authorized to practice healing under the Health Occupations Article or § 13-516 of the Education Article.

(2) "Health practitioner" does not include an emergency medical dispatcher.

(j) *Household.* — "Household" means the location:

(1) in which the child resides;

(2) where the abuse or neglect is alleged to have taken place; or

(3) where the person suspected of abuse or neglect resides.

(k) *Household member.* — "Household member" means a person who lives with, or is a regular presence in, a home of a child at the time of the alleged abuse or neglect.

(m) *Indicated.* — "Indicated" means a finding that there is credible evidence, which has not been satisfactorily refuted, that abuse, neglect, or sexual abuse did occur.

(n) *Law enforcement agency.* —

(1) "Law enforcement agency" means a State, county, or municipal police department, bureau, or agency.

(2) "Law enforcement agency" includes:

(i) a State, county, or municipal police department or agency;

(ii) a sheriff's office;

(iii) a State's Attorney's office; and

(iv) the Attorney General's office.

(o) *Local department.* — Except as provided in §§ 5-705.1 and 5-714 of this subtitle, "local department" means the local department that has jurisdiction in the county:

(1) where the allegedly abused or neglected child lives; or

(2) if different, where the abuse or neglect is alleged to have taken place.

(p) *Local department case file.* — "Local department case file" means that component of the Department's confidential computerized database that contains information regarding child abuse and neglect investigations to which access is limited to the local department staff responsible for the investigation.

(q) *Local State's Attorney.* — "Local State's Attorney" means the State's Attorney for the county:

(1) where the allegedly abused or neglected child lives; or

(2) if different, where the abuse or neglect is alleged to have taken place.

(r) *Mental injury.* — "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function caused by an intentional act or series of acts, regardless of whether there was an intent to harm the child.

(s) *Neglect*. — "Neglect" means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:

- (1) that the child's health or welfare is harmed or placed at substantial risk of harm; or
- (2) mental injury to the child or a substantial risk of mental injury.

(t) *Police officer*. — "Police officer" means any State or local officer who is authorized to make arrests as part of the officer's official duty.

(u) *Record*. — "Record" means the original or any copy of any documentary material, in any form, including a report of suspected child abuse or neglect, that is made by, received by, or received from the State, a county, or a municipal corporation in the State, or any subdivision or agency concerning a case of alleged child abuse or neglect.

(v) *Report*. — "Report" means an allegation of abuse or neglect, made or received under this subtitle.

(w) *Ruled out*. — "Ruled out" means a finding that abuse, neglect, or sexual abuse did not occur.

(x) *Sex trafficking*. — "Sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex act.

(y) *Sexual abuse*. —

(1) "Sexual abuse" means any act that involves sexual molestation or exploitation of a child by a parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, by any household or family member, or by any person who, because of the person's position or occupation, exercises authority over the child; or

(2) sex trafficking of a child by any individual.

(z) *Sexual molestation or exploitation*. — "Sexual molestation or exploitation" includes:

(1) allowing or encouraging a child to engage in:

- (i) obscene photography, films, poses, or similar activity;
- (ii) pornographic photography, films, poses, or similar activity; or
- (iii) prostitution;

(2) incest;

(3) rape;

(4) sexual offense in any degree; and

(5) any other sexual conduct that is a crime.

(aa) *Unsubstantiated*. — "Unsubstantiated" means a finding that there is an insufficient amount of evidence to support a finding of indicated or ruled out.

§5-702. Legislative policy.

The purpose of this subtitle is to protect children who have been the subject of abuse or neglect by:

- (1) mandating the reporting of any suspected abuse or neglect;
- (2) giving immunity to any individual who reports, in good faith, a suspected incident of abuse or neglect;
- (3) requiring prompt investigation of each reported suspected incident of abuse or neglect;
- (4) causing immediate, cooperative efforts by the responsible agencies on behalf of children who have been the subject of reports of abuse or neglect; and
- (5) requiring each local department to give the appropriate service in the best interest of the abused or neglected child.

§5-704. Reporting of abuse or neglect — By health practitioner, police officer, educator or human service worker.

(a) *In general.* — Notwithstanding any other provision of law, including any law on privileged communications, each health practitioner, police officer, educator, or human service worker, acting in a professional capacity in this State who has reason to believe that a child has been subjected to abuse or neglect:

- (1) shall notify the local department or the appropriate law enforcement agency; and
- (2) if acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, shall immediately notify and give all information required by this section to the head of the institution or the designee of the head.

(b) *Oral and written reports; cooperation among departments and agencies.* —

(1) An individual who notifies the appropriate authorities under subsection (a) of this section shall make:

- (i) an oral report, by telephone or direct communication, as soon as possible:
 1. to the local department or appropriate law enforcement agency if the person has reason to believe that the child has been subjected to abuse; and
- (ii) a written report:
 1. to the local department not later than 48 hours after the contact, examination, attention, or treatment that caused the individual to believe that the child had been subjected to abuse or neglect; and
 2. with a copy to the local State's Attorney if the individual has reason to believe that the child has been subjected to abuse.

(2) (i) An agency to which an oral report of suspected abuse or neglect is made under paragraph (1) of this subsection shall immediately notify the other agency.

(ii) This paragraph does not prohibit a local department and an appropriate law enforcement agency from agreeing to cooperative arrangements.

(c) *Contents of report.* — Insofar as is reasonably possible, an individual who makes a report under this section shall include in the report the following information:

- (1) the name, age, and home address of the child;
- (2) the name and home address of the child's parent or other person who is responsible for the child's care;
- (3) the whereabouts of the child;
- (4) the nature and extent of the abuse or neglect of the child, including any evidence or information available to the reporter concerning possible previous instances of abuse or neglect; and
- (5) any other information that would help to determine:
 - (i) the cause of the suspected abuse or neglect; and
 - (ii) the identity of any individual responsible for the abuse or neglect.

§5-708. Immunity of person making report.

Any person who makes or participates in making a report of abuse or neglect under § 5-704, § 5-705, or § 5-705.1 of this subtitle or a report of substantial risk of sexual abuse under § 5-704.1 of this subtitle or participates in an investigation or a resulting judicial proceeding shall have the immunity described under § 5-620 of the Courts and Judicial Proceedings Article from civil liability or criminal penalty.

§5-711. Access to child's medical records.

As needed by the local department as part of its investigation under this subtitle or to provide appropriate services in the best interests of the child who is the subject of a report of child abuse or neglect, upon request, the local department shall receive copies of a child's medical records from any provider of medical care.