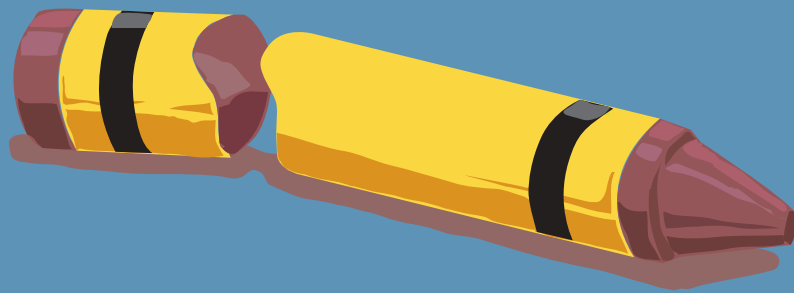


The California
Child Abuse
and Neglect
Reporting Law

Condensed Version

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Crime and Violence Prevention Center
California Attorney General's Office
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The 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 child abuse and the persons required to report. Procedures for reporting categories of child abuse have also been clarified.

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 have 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 headstart 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 this section.
- 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 counselor trainee, as defined in subdivision (c) of **Section 4980.03 of the Business and Professions Code**.
- 25) An unlicensed marriage, family, and child counselor intern registered under **Section 4980.44 of the Business and Professions Code**.
- 26) A state or county public health employee who treats a minor for venereal disease or any other condition.
- 27) A coroner.
- 28) A medical examiner, or any other person who performs autopsies.
- 29) A commercial film and photographic print processor, as specified in subdivision (d) of **P.C. 11166**. For purposes of the California Child Abuse Reporting Law, "commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.
- 30) A child visitation monitor. For purposes of the California Child Abuse Reporting Law, "child visitation monitor" means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law.
- 31) An animal control officer or humane society officer. For purposes of the California Child Abuse Reporting Law, the following terms have the following meanings: (A) "Animal control officer" means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws and regulations. (B) "Humane society officer" means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to **Section 14502 or 14503 of the Corporations Code**.
- 32) A clergy member, as specified in subdivision (c) of **P.C. 11166**. For purposes of the California Child Abuse Reporting Law, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.
- 33) Any custodian of records of a clergy member, as specified in this section and subdivision (c) of **Section 11166**.
- 34) Any employee of any police department, county sheriff's department, county probation department, or county welfare department.
- 35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the Rules of the Court.

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 cruelty or unjustifiable punishment, including inflicting or permitting unjustifiable physical pain or mental suffering, or endangering the child's person or health. **(P.C. 11165.3.)** "Mental suffering" in and of itself is not required to be reported. However, it may be reported. **(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 practically possible) by telephone and you must prepare and send 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 may be requested from your local police or sheriff's department, county probation department, or county welfare department. The mandated reporter may include with the report any nonprivileged documentary evidence they possess 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.)**

Immunity

Mandated reporters have immunity from criminal or civil liability for any report required under the Child Abuse Reporting Law **(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[g][1].)**

Any supervisor or administrator who violates the above code section is guilty of an infraction punishable by a fine not to exceed five thousand dollars (\$5,000). **(P.C. 11166.01.)**

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. "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[c][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 and/or by a \$1,000 fine. **(P.C. 11166[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] 17Cal. 3d 399.)

Responsibilities of Agencies Employing Mandated Reporters

On or 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. **(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. **(P.C. 11166.5[a].)**

On or before January 1, 2004, a clergy member or custodian of records **may** report to an agency specified in PC 11165.9 that the clergy member or custodian of records, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse that the clergy member or

custodian of records did not previously report. This shall apply even if the victim has reached the age of majority by the time the report is made. **(P.C. 11166(c)(3)(A) and (B).)**

Training in the duties imposed by the reporting law shall include training in child abuse identification and reporting. **(P.C. 11165.7[c].)** The absence of training shall not excuse a mandated reporter from the duties imposed by the reporting law. **(P.C. 11165.7[e].)**

Feedback to Mandated Reporter

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].)**

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.

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

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

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