

What must the report include?

If you know the requested information, the report must include the name and address of the child, the name and address of the person responsible for the care, custody or welfare of the child, and any other pertinent information concerning the alleged or suspected abuse or neglect.

How will I be affected as a result of making a report?

A person who makes a report in good faith (the reasonable belief standard) is immune from civil or criminal liability and legally protected from workplace retaliation. Knowingly or intentionally making a false report is a Class A misdemeanor for a first offense, with additional offenses being a state jail felony.

What can happen if I don't make a report?

Failure to make a report of suspected child abuse is a Class B misdemeanor punishable by a fine of up to \$2,000, 180 days in jail, or both. Professionals also place their certificate or license in jeopardy if the certifying board or agency is notified of the failure to report.

What if I am asked to comment in an investigation of a report made by someone else?

The immunity from civil or criminal liability extends to anyone acting in good faith who assists in the investigation of a report of alleged child abuse or neglect as well as someone who participates in a judicial proceeding arising from such a report or investigation.

The information provided in this brochure is not intended to constitute specific legal advice. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

Facts at a glance

- A report of child abuse or neglect may be made to any local or state law enforcement agency or to Child Protective Services' 24-hour toll-free telephone hotline at (800) 252-5400.
- Anyone who has **cause to believe** that a child has been abused or neglected must report it to the authorities.
- Professionals (including, but not limited to, teachers, doctors, nurses, and day-care employees) are required to make a report if they **suspect** that a child has been abused or neglected. A professional may NOT delegate the duty to report to another person, and the report must be filed within 48 hours of the suspicion.
- A person filing an abuse or neglect report need not have proof or knowledge "beyond a shadow of a doubt" of the crime, but must merely have "reason to believe or suspect" that the crime occurred.
- A person who makes a report in good faith (the reasonable belief standard) is immune from civil or criminal liability and legally protected from workplace retaliation. Failure to make a report of suspected child abuse is a Class B misdemeanor punishable by a fine of up to \$2,000, 180 days in jail, or both.



Child Abuse

Introduction

This brochure, a collaborative effort of the Texas Young Lawyers Association Children's Rights Committee and the Texas Classroom Teachers Association, was designed to raise awareness regarding an individual's rights and responsibilities in reporting suspected child abuse. Chapter 261, sections 101-109, of the Family Code delineates the statutory requirements and immunities for reporting child abuse or neglect in Texas. We have compiled some frequently asked questions and provided answers to highlight statutory provisions.

Who is required to report?

In general, the Family Code requires anyone who has **cause to believe** that a child has been abused or neglected to report it to the authorities. (261.101(a)) Additionally, the statute specifically requires that professionals report if they **suspect** that a child has been abused or neglected.

A "professional" is any person who is licensed or certified by the state or works for a facility that requires licensure and who has direct contact with children in the normal course of his/her duties. This includes teachers, nurses, doctors, day-care workers, and employees of facilities that provide reproductive services. (261.101(b))

A professional may NOT delegate the duty to report to another person, i.e., a teacher telling his/her campus principal or the counselor does not relieve the teacher of the duty to make a report.

What must I report?

You must report any suspicions of abuse or neglect of a child. Abuse includes: mental or emotional injury to a child; physical injury that results in substantial harm to the child (excluding accidents or reasonable discipline by a parent); genuine threat of substantial harm from physical injury; sexual conduct that is harmful to the child's welfare; obscene or pornographic depictions of a child; causing or permitting a child to use a controlled

substance; and causing or failing to make a reasonable effort to prevent any of the above.

Neglect includes: leaving a child in a situation where the child would be exposed to a substantial risk of physical or mental harm; abandonment; placing a child in or failing to remove a child from a situation that is beyond the child's abilities and that results in bodily injury or substantial risk of a immediate harm; failure to seek or obtain medical care for a child that could or does result in death, disfigurement or bodily injury; failure to provide a child with food, clothing or shelter necessary to sustain the life or health of the child (excluding failure caused by financial inability); or placing a child or failing to remove a child from a situation in which the child would be exposed to a substantial risk of harmful sexual conduct.

Why am I required to report child abuse?

The state has an interest in protecting the welfare of children. The law specifically addresses professionals, since this group is most likely to have direct contact with the state's 5 million children and thus are more likely to

notice changes in a child's behavior or performance that may indicate abuse or neglect is occurring.

How long do I have to make a report?

A professional who suspects child abuse or neglect must make a report within 48 hours of first becoming suspicious.

What if I am not sure that the child is really being abused?

The law does not require that you be sure "beyond a shadow of a doubt" that a child has been abused or neglected. It merely requires that you have "cause to believe," i.e., you have reasonable cause to believe or suspect that a child is being abused.

How do I make a report?

You may make a report either verbally or in writing. The report may be made anonymously. However, the statute now states that the identity of the person making the report is confidential and may be disclosed only by court order or to a law enforcement officer for the purpose of conducting a criminal investigation. (261.101(d)) Under the revised language, a person making a report can be more confident that his/her identity will not be disclosed. While anonymous reports are still accepted, the procedures for investigating anonymous abuse reports are not as rigid.

Where do I report my suspicions?

A report may be made to any local or state law enforcement agency or to Child Protective Services' 24-hour toll-free telephone hotline at (800)252-5400.

