

Mandatory Reporting Requirements: Children Puerto Rico

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Question	Answer
Who is required to report?	<p>Any person and the following individuals and entities:</p> <ul style="list-style-type: none"> • Professionals or public officials, public, private, and privatized entities which, in their professional capacity and in the performance of their duties, may learn of or come to suspect that a minor is, has been, or is at risk of becoming a victim of abuse, institutional abuse, neglect, and/or institutional neglect; • Professionals in the fields of health, the system of justice, education, social work, public order, persons who administer or work in caregiving institutions or centers that provide care services for twenty-four (24) hours a day or part thereof, or in rehabilitation institutions and centers for minors, or in foster homes; and • All processors of film or photographs who have knowledge of or observe, in the performance of their professional responsibilities or employment, any motion picture, photograph, videotape, negative, or slide that depicts a minor involved in a sexual activity.
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • When anyone has knowledge or suspicion of abuse, institutional abuse, neglect, and/or institutional neglect of a minor. <p>Where does it go?</p> <ul style="list-style-type: none"> • Reports shall be made through the hotline (787-749-1333; 1-800-981-8333), to the Puerto Rico Police, or the local office of the Department of the Family of the Commonwealth of Puerto Rico. • Any film, photograph, videotape, negative, or slide that depicts a minor involved in a sexual activity shall be delivered to the nearest station of the Puerto Rico Police. • Any mandatory reporter with knowledge of or suspicion that a minor has died as a result of abuse, institutional abuse, neglect, and/or institutional neglect, shall report the fact to the Puerto Rico Police and to the hotline of the Department.
What definitions are important to know?	<ul style="list-style-type: none"> • “Abuse” means any intentional act or omission by the father, mother or other person in charge of the minor of such a nature that it causes or puts a minor at risk of suffering damage or harm to his or her health or physical, mental, and/or emotional integrity, including sexual abuse as defined in the statute. Abuse shall also mean to engage in obscene behavior and/or use the minor to carry out obscene acts; to allow another person to cause or put the minor at risk of suffering damage or harm to his or her health or physical, mental, and/or emotional integrity; to abandon a minor willfully, to allow the father, mother or other person in charge of the wellbeing of the minor to exploit him or her; or to allow another person to do so by forcing or allowing the minor to perform any act, including, but not limited to, using the minor to engage in obscene acts for profit or in order to receive any other benefit, or to incur in any conduct that, if

criminally prosecuted, would constitute a crime against the health, or physical, mental, or emotional integrity of the minor, including sexual abuse of the minor. Minors will also be considered to be victims of abuse if the father, mother or person responsible for the minor has incurred in the conduct described above, or has engaged in acts that constitute domestic violence in the presence of minors.

- **“Institutional abuse”** means any act or omission by a foster parent or an employee or official of a public or private institution that provides caregiving services, for 24 hours a day or part thereof, who has control over or custody of a minor for his or her care, education, treatment or detention, who causes harm or endangers the health or physical, mental and/or emotional integrity of the minor, including sexual abuse, engages in obscene conduct and/or uses the minor to perform obscene acts, known or suspected, or which occur as a result of the prevailing policies, practices and conditions in the institution in question, exploits the minor or allows someone else to do so, including, but not limited to, using the minor to perform obscene acts for profit or in order to receive any other benefit.
- **“Institutional neglect”** means the neglect incurred in, or suspected to be incurred by, the operator of a foster home or any employee or official or a private or public institution that provides caregiving services during a 24 hour period of fraction thereof, or who has control over or custody of a minor for his/her care, education, treatment or detention, who causes harm to a minor or puts him or her at risk of suffering harm to his or her health, physical, mental and/or emotional integrity, including sexual abuse, known or suspected, or which occurs as a result of the policies, practices and conditions in the institution in question.
- **“Lewd conduct”** means any physical activity of the human body, whether carried out alone or with other persons, including singing, talking, dancing, acting, simulating or pantomiming, which as a whole is considered by the average person and according to contemporary community standards, to appeal to lustful interests, that is, a morbid interest in nudity, sexuality or physiological functions and which represents or depicts in an overtly offensive manner any sexual conduct and lacks any serious literary artistic, political, religious, scientific or educational value.
- A **“minor”** is any person who has not yet attained the age of 18 years.
- **“Neglect”** shall mean a type of abuse that consists of failing to perform the duties, or to exercise the capacity to provide adequate food, clothing, shelter, education, or health care to a minor; failing to exercise supervision, failing to visit the minor or to remain in contact or frequent communication with the minor. A minor shall also be deemed a victim of neglect if the father, mother or other person in charge of the minor has incurred certain other conduct described in the Civil Code of Puerto Rico.
- **“Physical harm”** shall mean any nonaccidental trauma, injury, or condition, including inadequate nourishment, which, if left unattended, could result in death, disfigurement, illness, or temporary or permanent disability of any part or function of the body, including inadequate nourishment. The trauma, injury, or condition may also be the result of a single episode or several episodes.
- **“Mental or emotional harm”** shall mean the impairment of the intellectual or emotional capacity of a minor, given what is considered normal for his or her age or cultural environment.
 - Subject to proof to the contrary, emotional harm shall be presumed to exist when there is evidence that the minor recurrently manifests or exhibits behaviors such as fear, aggressive behavior towards himself or herself or towards others, feelings of abandonment or hopelessness, frustration and failure, anxiety, insecurity, withdrawal, regressive behavior or behavior appropriate for a child of a

	<p>lesser age, or any other similar behavior.</p> <ul style="list-style-type: none"> • “Sexual abuse” means engaging in sexual conduct in the presence of a child and/or utilizing the child, voluntarily or otherwise, to engage in sexual conduct aimed at satisfying lewdness, or any other act that, if criminally prosecuted, would constitute any of the following crimes: sexual assault, lewd acts, indecent exposure or indecent proposals, producing child pornography, remitting, transporting, selling, distributing, publishing, exhibiting or possessing obscene materials and obscene shows as typified in the Penal Code of the Commonwealth of Puerto Rico.
What timing and procedural requirements apply to reports?	<ul style="list-style-type: none"> • Reports must be made immediately. • Mandatory reporters shall subsequently fill out a form provided by the Department, which shall be sent to the central registry, within forty-eight (48) hours.
What information must a report include?	<ul style="list-style-type: none"> • Not specified in the statute; however, reporters should be prepared to provide: <ul style="list-style-type: none"> • Name of victim • Address or location • Type of Abuse • Approximate age • Gender • Disability Information • Indications of physical harm • For information in Spanish: (https://www.adfanpr.com/)
Anything else I should know?	<ul style="list-style-type: none"> • Any of the professionals or officials obliged to provide information in every case of abuse, institutional abuse, neglect, or institutional neglect, as well as any protection case worker, may take photographs or have photographs taken of the minor's trauma areas, and if medically indicated, shall perform or order radiological or dental examinations, laboratory tests, or any other medical examination of the minor that is necessary, even without the consent of the father, mother, or other person responsible for the wellbeing of the minor, in cases where they are opposed to these or are not available at the time. <ul style="list-style-type: none"> • The taking of photographs or performing of radiological or dental examinations, laboratory tests, or any other necessary medical examination shall be conducted in such a way that the condition of the minor is not aggravated or his or her dignity offended; and they shall be remitted to the Department as quickly as possible. • The Department shall cover the initial expenses for the evaluation and care of the allegedly abused or abandoned minor and may require that the father, mother, or other person responsible for the minor reimburse the expenses. • Reports on institutional abuse and institutional neglect shall be made and investigated in the same way as provided for in § 446 of this title, except that the Department of Justice shall be the government entity responsible for carrying out the corresponding investigation when institutional abuse and institutional neglect occur, or are suspected of occurring in an institution that gives shelter or provides services, treatment, or detention to minors who are offenders pursuant to §§ 2201 et seq. of Title 34. • Any person, official, or public or private institution with the obligation of furnishing information pursuant

	<p>to the provisions of either § 444b and/or § 446 of this title, and who voluntarily and deliberately fails to comply with that obligation, or deliberately prevents another person acting reasonably from doing so, shall incur a misdemeanor and if convicted shall be sanctioned with a maximum fine of five thousand (5,000) dollars, or with a maximum term of imprisonment of ninety (90) days.</p> <ul style="list-style-type: none"> • The information furnished, as well as the identity of the person who reported the information, shall be kept strictly confidential, except in the cases of unfounded reports in which false information has been knowingly provided. • Information provided in good faith by any persons, officials, or institutions bound to report situations of abuse, institutional abuse, neglect, and/or institutional neglect or minors, as set forth in this chapter, may not be used against them in any civil or criminal procedure that may be initiated as a result of said action. Nor may the information so reported by school and hospital employees and by law enforcement officers, who are obligated to allow the Department's intervention, be used against them.
Statutory citation(s):	<ul style="list-style-type: none"> • 8 L.P.R.A. §§ 444; § 446; 446a; 449; 450a.