

Mandatory Reporting Requirements: Children Virginia

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Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • Any person licensed to practice medicine or any of the healing arts; • Any hospital resident or intern, and any person employed in the nursing profession; • Any person employed as a social worker or family-services specialist; • Any probation officer; • Any teacher or other person employed in a public or private school, kindergarten or child day program ; • Any person providing full-time or part-time child care for pay on a regularly planned basis; • Any mental health professional; • Any law-enforcement officer or animal control officer; • Any mediator eligible to receive court referrals; • Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment; • Any person 18 years of age or older associated with or employed by any public or private organization responsible for the care, custody or control of children; • Any person who is designated a court-appointed special advocate; • Any person 18 years of age or older who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect; • Any person employed by a local department who determines eligibility for public assistance; • Any emergency medical services provider certified by the Board of Health, unless such provider immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith; • Any athletic coach, director or other person 18 years of age or older employed by or volunteering with a private sports organization or team; • Administrators or employees 18 years of age or older of public or private day camps, youth centers and youth recreation programs; • Any person employed by a public or private institution of higher education other than an attorney who is employed by a public or private institution of higher education as it relates to information gained in the course of providing legal representation to a client; and • Any minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church, unless the information supporting the suspicion of child abuse or neglect (i) is required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) was communicated to him in a confidential manner, properly entrusted to him in his professional capacity and necessary to enable him to discharge the functions of his office

according to the usual course of his practice or discipline, wherein such person so communicating such information about himself or another is seeking spiritual counsel and advice relative to and growing out of the information so imparted.

- Volunteer and professional Boy Scout leaders (Op. Atty. Gen., Opinion No. 02-053, June 27, 2002).
- Advocates in domestic violence shelters and sexual assault crisis centers generally are not statutorily mandated to report child abuse and neglect, but he or she would be required to report suspected child abuse or neglect to the extent that the advocate performs activities that would place the advocate under any of the above categories (Op. Atty. Gen., Opinion No. 09-097, Jan. 5, 2010).

When is a report required and where does it go?

When is a report required?

- Any time a mandated reporter who, *in their professional or official capacity*, has reason to suspect that a child is an abused or neglected child.
- No report is required if the person has *actual knowledge* that the same matter has already been reported to the local department or the Department's toll-free child abuse and neglect hotline.

Where does it go?

- The local department of social services of the county/city wherein the child resides or wherein the abuse/neglect is believed to have occurred or to the State Department or Social Services' toll free child abuse and neglect hotline at 1-800-552-7096 (in-state), 804-786-8536 (out-of-state); 800-828-1120 (hearing impaired).
- If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, the report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.
- If an employee of the local department of social services is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered.
- If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith.
- Medical personnel and their staff, who have reason to suspect that a child is abused or neglected or that carnal knowledge of a child between thirteen and fifteen years of age or rape of a child has occurred, have a duty to report such suspicions to the local department of social services or the Department of Social Services' hotline. Such reporting is a specific exception to requirements for health records privacy and will not be considered a violation of the patient confidentiality requirements. Op. Atty. Gen., Opinion No. 02-148 ([Feb. 11, 2003](#)).
- Any physician who diagnoses a venereal disease in a child twelve years of age or under shall report the matter, in accordance with the provisions of § 63.2-1509, unless the physician reasonably believes that the infection was acquired congenitally or by a means other than sexual abuse.

What definitions are important to know?

- **“Abused or neglected child”** means any child under the age of 18:
 - Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child’s parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation;
 - Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child’s best interest; Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4
 - Whose parents or other person responsible for his care abandons such child;
 - Whose parents or other person responsible for his care commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;
 - Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child’s parent, guardian, legal custodian or other person standing in loco parentis;
 - Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender; or
 - Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.
- A **“child”** means any natural person under 18 years of age.
- A **“reason to suspect that a child is abused or neglected”** includes, without limitation:
 - A finding made by a health care provider within six weeks of the birth of a child that the child was born affected by substance abuse or experiencing withdrawal symptoms resulting from in utero drug exposure;

	<ul style="list-style-type: none"> • A diagnosis made by a health care provider within four years following a child’s birth that the child has an illness, disease, or condition that, to a reasonable degree of medical certainty, is attributable to maternal abuse of a controlled substance during pregnancy; or • A diagnosis made by a health care provider within four years following a child’s birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. • “Rape” occurs when any person has sexual intercourse with a complaining witness, whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in sexual intercourse with any other person and such act is accomplished (i) against the complaining witness's will, by force, threat or intimidation of or against the complaining witness or another person; or (ii) through the use of the complaining witness's mental incapacity or physical helplessness; or (iii) with a child under age 13 as the victim. • “Carnal Knowledge of a child between thirteen and fifteen years of age” includes the acts of sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, and animate and inanimate object sexual penetration. A child under the age of thirteen years shall not be considered a consenting child.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Reports must be made immediately. • The initial report may be oral.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • All information that is the basis for his suspicion of abuse or neglect of the child and, upon request, any information, records, or reports that document the basis for the report. <ul style="list-style-type: none"> • The “reason to suspect” that the child has been abused or neglected should be included in the report, along with the facts relied upon by the person making the report. • If the “reason to suspect” is based upon (i) a finding made by a health care provider within six weeks of the birth of a child that the child was born affected by substance abuse or experiencing withdrawal symptoms resulting from in utero drug exposure; (ii) a diagnosis made by a health care provider within four years following a child's birth that the child has an illness, disease, or condition that, to a reasonable degree of medical certainty, is attributable to maternal abuse of a controlled substance during pregnancy; or (iii) a diagnosis made by a health care provider within four years following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol, such fact shall be included in the report along with the facts relied upon by the person making the report.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose. • Any person required to file a report pursuant to this section who fails to do so as soon as possible but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$1,000. • Any person 14 years of age or older who knowingly makes or causes to be made a false report of child

abuse or neglect is guilty a Class 1 misdemeanor. Any person 14 years of age or older who has been previously convicted under this subsection and who is subsequently convicted under this subsection shall be guilty of a Class 6 felony

- In cases evidencing acts of rape, sodomy, or object sexual penetration, a person who knowingly and intentionally fails to make the report required pursuant to this section shall be guilty of a Class 1 misdemeanor.
- The reporting requirement shall not apply to any regular minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church as it relates to (i) information required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to § 8.01-400 (ability to not divulge information, in a civil case, communicated to him in a confidential manner, properly entrusted to him in his professional capacity and necessary to enable him to discharge the functions of his office according to the usual course of his practice or discipline, wherein such person so communicating such information about himself or another is seeking spiritual counsel and advice relative to and growing out of the information so imparted) or 19.2-271.3 (ability not to divulge information, in a criminal case, communicated to him by the accused in a confidential manner, properly entrusted to him in his professional capacity and necessary to enable him to discharge the functions of his office according to the usual course of his practice or discipline, where such person so communicating such information about himself or another is seeking spiritual counsel and advice relative to and growing out of the information so imparted) if offered as evidence in court.
 - Confidentiality of communications to a licensed professional counselor, as defined in § 54.1-3500; licensed clinical social worker, as defined in § 54.1-3700; licensed psychologist, as defined in § 54.1-3600; or licensed marriage and family therapist shall not extend to testimony in matters relating to child abuse and neglect nor serve to relieve any person from the reporting requirements
- Reporting requirement imposed on child care centers with respect to child abuse does not preclude churches which run child care centers from ministering to families with child abuse problems, so that the reporting requirement does not burden the churches' free exercise of religion. *Forest Hills Early Learning Ctr., Inc. v. Grace Baptist Church*, 846 F.2d 260 (4th Cir. 1988).
- Any person who suspects that a child is an abused or neglected child "may" make a complaint concerning such child to the local department of social services of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the department of social services' toll-free child abuse and neglect hotline.
- Any person making a mandatory or voluntary report of suspected child abuse or neglect, or physician, child-protective services worker, or law-enforcement official who takes a child into custody pursuant to [§ 63.2-1517](#) or who participates in any judicial proceeding resulting therefrom shall be immune from any civil or criminal liability in connection therewith, unless it is proven that such person acted in bad faith or with malicious intent.
 - Bad faith requires more than a mistaken report, report based on misunderstanding, or negligence. So long as the mandatory reporter was acting in the interest of protecting a child, immunity will attach. *Wolf v. Fauquier Cty. Bd. of Supervisors*, 555 F.3d 311 (4th Cir. 2009).
- Any physician-patient or spousal privileges do not apply in a legal proceeding resulting from filing of a

	mandatory report.
Statutory citation(s):	<ul style="list-style-type: none">• Va. Code Ann. §§ 8.01-400.2, 63.2-100, 63.2-1508–1513, 1519; 63.2-1509(B), Op. Atty. Gen., Opinion No. 09-097 (Jan. 5, 2010); Op. Atty. Gen., Opinion No. 02-148 (Feb. 11, 2003); Op. Atty. Gen., Opinion No. 02-053 (June 27, 2002); <i>Forest Hills Early Learning Ctr., Inc. v. Grace Baptist Church</i>, 846 F.2d 260 (4th Cir. 1988); <i>Wolf v. Fauquier Cty. Bd. of Supervisors</i>, 555 F.3d 311 (4th Cir. 2009).