

# Mandatory Reporting Requirements: Children West Virginia

*Last Updated: April 2023*

Question	Answer
Who is required to report?	<ul style="list-style-type: none"> <li>• <b>Abuse or neglect, including sexual abuse or sexual assault must be reported by any of the following persons, if over the age of 18:</b> <ul style="list-style-type: none"> <li>• Any medical, dental or mental health professional;</li> <li>• Christian Science practitioner or religious healer;</li> <li>• School teacher or other school personnel;</li> <li>• Social service worker;</li> <li>• Child care or foster care worker;</li> <li>• Emergency medical services personnel;</li> <li>• Peace officer or law-enforcement official or humane officer;</li> <li>• Member of the clergy;</li> <li>• Circuit court judge, family court judge, employee of the Division of Juvenile Services, or magistrate;</li> <li>• Youth camp administrator or counselor;</li> <li>• Employee, coach or volunteer of an entity that provides organized children’s activities; and</li> <li>• Commercial film or photographic print processor.</li> </ul> </li> </ul>
When is a report required and where does it go?	<p><b>When is a report required?</b></p> <ul style="list-style-type: none"> <li>• Reasonable cause to suspect that a child is neglected or abused, including sexual abuse or sexual assault, or observation of a child being subjected to conditions that are likely to result in abuse or neglect.</li> <li>• Humane officers pursuant to an investigation of animal cruelty shall report whenever he or she forms a reasonable suspicion that a minor child is the victim of abuse or neglect</li> <li>• The report must be made immediately and not more than 24 hours after suspecting abuse or neglect.</li> </ul> <p><b>Where does it go?</b></p> <ul style="list-style-type: none"> <li>• <b>Child Abuse or neglect:</b> <ul style="list-style-type: none"> <li>• Department of Health and Human Resources Child Abuse and Neglect Hotline (1-800-352-6513).</li> <li>• Belief of serious physical abuse or sexual abuse or sexual assault shall also be immediately reported to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint.</li> <li>• Any person subject to the mandatory reporting provisions who is a member of the staff or volunteer of a public or private institution, school, entity that provides organized activities for children, facility, or agency shall also immediately notify the person in charge of the institution,</li> </ul> </li> </ul>

school, entity that provides organized activities for children, facility, or agency, or a designated agent thereof, who may supplement the report or cause an additional report to be made; however, that the person required to report has notified a person in charge, supervisor, or superior does not exempt that person from his or her mandate to report suspected abuse or neglect.

- Any person subject to the mandatory reporting provisions who has reasonable cause to suspect that a child has died due to child abuse or neglect shall report that fact to the appropriate medical examiner or coroner.

• **Reporting by family court:**

- A family court that has reasonable cause to suspect any minor child involved in family court proceedings has been abused or neglected shall immediately report the suspected abuse or neglect to the state child protective services agency and the circuit court. In addition to any oral communication, the family court shall prepare and submit a written referral setting forth the specific allegations or information that led to the determination of reasonable cause to suspect abuse or neglect.

What definitions are important to know?

- **“Abused child”** means a

(1) child whose health or welfare is harmed or threatened by:

- (A) A parent, guardian or custodian who knowingly or intentionally inflicts, attempts to inflict or knowingly allows another person to inflict, physical injury or mental or emotional injury, upon the child or another child in the home. Physical injury may include injury to the child as a result of excessive corporal punishment;
- (B) Sexual abuse or sexual exploitation;
- (C) The sale or attempted sale of a child by a parent, guardian or custodian;
- (D) Domestic violence; or
- (E) Human trafficking or attempted human trafficking.

(2) A child conceived as a result of sexual assault, as that term is defined in this section, or as a result of the violation of a criminal law of another jurisdiction which has the same essential elements: Provided, That no victim of sexual assault may be determined to be an abusive parent, as that term is defined in this section, based upon being a victim of sexual assault.

- **“Child”** means any person under 18 years of age not otherwise emancipated by law.
- **“Child abuse and neglect” or “child abuse or neglect”** means any act or omission that creates an abused child or a neglected child as those terms are defined in this section.
- **“Imminent danger to the physical well-being of the child”** means an emergency situation in which the welfare or the life of the child is threatened. These conditions may include an emergency situation when there is reasonable cause to believe that any child in the home is or has been sexually abused or sexually exploited, or reasonable cause to believe that the following conditions threaten the health, life, or safety of any child in the home:
  - Nonaccidental trauma inflicted by a parent, guardian, custodian, sibling, babysitter or other caretaker;
  - A combination of physical and other signs indicating a pattern of abuse which may be medically

- diagnosed as battered child syndrome;
- Nutritional deprivation;
- Abandonment by the parent, guardian, or custodian;
- Inadequate treatment of serious illness or disease;
- Substantial emotional injury inflicted by a parent, guardian, or custodian;
- Sale or attempted sale of the child by the parent, guardian, or custodian;
- The parent, guardian, or custodian's abuse of alcohol or drugs or other controlled substance as defined in § 60A-1-101 of this code, has impaired his or her parenting skills to a degree as to pose an imminent risk to a child's health or safety; or
- Any other condition that threatens the health, life or safety of any child in the home.
- **"Neglected child"** means a child:
  - Whose physical or mental health is harmed or threatened by a present refusal, failure or inability of the child's parent, guardian or custodian to supply the child with necessary food, clothing, shelter, supervision, medical care or education, when that refusal, failure or inability is not due primarily to a lack of financial means on the part of the parent, guardian or custodian; or
  - Who is presently without necessary food, clothing, shelter, medical care, education or supervision because of the disappearance or absence of the child's parent or custodian.
  - "Neglected child" does not mean a child whose education is conducted within the provisions of the W. Va. Code regarding exemptions from compulsory school attendance (Sec. 1, Art. 8, Ch. 18).
- **"Serious physical abuse"** means bodily injury which creates a substantial risk of death, causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.
- **"Sexual abuse"** means:
  - As to a child who is less than sixteen years of age, any of the following acts which a parent, guardian or custodian shall engage in, attempt to engage in, or knowingly procure another person to engage in, with such child notwithstanding the fact that the child may have willingly participated in such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct: (i) Sexual intercourse; (ii) Sexual intrusion; or (iii) Sexual contact or (iv) conduct proscribed by § 61-8c-3;
  - Any conduct whereby a parent, guardian or custodian displays his or her sex organs to a child, or procures another person to display his or her sex organs to a child, for the purpose of gratifying the sexual desire of the parent, guardian or custodian, of the person making such display, or of the child, or for the purpose of affronting or alarming the child; or
  - Any of the following offenses:
    - **"Sexual abuse in the first degree"**: (1) subjecting another person to sexual contact without their consent as a result of forcible compulsion, or (2) subjecting a person who is physically helpless to sexual contact, or (3) a person fourteen years old or more subjects another person to sexual contact who is younger than twelve years old;
    - **"Sexual abuse in the second degree"**: subjecting another person to sexual contact when that person is mentally defective or mentally incapacitated; or
    - **"Sexual abuse in the third degree"**: subjecting another person to sexual contact without

the latter's consent due to incapacity to consent by reason of being less than sixteen years old. It is a defense to sexual abuse in the third degree if the defendant is less than sixteen years old or the defendant was less than four years older than the victim.

- **“Sexual assault in the first degree”** (1) the person engages in sexual intercourse or sexual intrusion with another person and, in so doing: (i) inflicts serious bodily injury upon anyone; or (ii) employs a deadly weapon in the commission of the act; or (2) the person, being fourteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is younger than twelve years old and is not married to that person.
- **“Sexual assault in the second degree”** (1) a person engages in sexual intercourse or sexual intrusion with another person without the person's consent, and the lack of consent results from forcible compulsion; or (2) such person engages in sexual intercourse or sexual intrusion with another person who is physically helpless.
- **“Sexual assault in the third degree”** occurs when (1) a person engages in sexual intercourse or sexual intrusion with another person who is mentally defective or mentally incapacitated; or (2) a person, being sixteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is less than sixteen years old and who is at least four years younger than the defendant and is not married to the defendant.
- **“Sexual contact”** means any intentional touching, either directly or through clothing, of the breasts, buttocks, anus, or any part of the sex organs of another person, or intentional touching of any part of another person's body by the actor's sex organs and the touching is done for the purpose of gratifying the sexual desire of either party.
- **“Sexual exploitation”** means an act whereby:
  - A parent, custodian, guardian or other person in a position of trust to a child, whether for financial gain or not, persuades, induces, entices or coerces a child to engage in sexually explicit conduct including, whether actually performed or simulated, (1) Genital to genital intercourse; (2) Fellatio; (3) Cunnilingus; (4) Anal intercourse; (5) Oral to anal intercourse; (6) Bestiality; (7) Masturbation; (8) Sadoomasochistic abuse, including, but not limited to, flagellation, torture or bondage; (9) Excretory functions in a sexual context; or (10) Exhibition of the genitals, pubic or rectal areas of any person in a sexual context;
  - A parent, guardian or custodian or other person in a position of trust in relation to a child persuades, induces, entices or coerces a child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian, person in a position of trust or a third person, or to display his or her sex organs under circumstances in which the parent, guardian, custodian or person in a position of trust knows such display is likely to be observed by others who would be affronted or alarmed;
  - A parent, guardian, or custodian knowingly maintains or makes available a child for the purpose of engaging the child in commercial sexual activity.
- **“Sexual intercourse”** means any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person.
- **“Sexual intrusion”** means any act between persons involving penetration, however slight, of the female

	<p>sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party.</p> <ul style="list-style-type: none"> <li>• <b>“Serious physical abuse”</b> means bodily injury which creates a substantial risk of death, causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.</li> </ul>
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> <li>• Reports of child abuse or neglect, including sexual abuse or sexual assault, must be made immediately, and not more than 24 hours after suspecting abuse or neglect, by phone and followed up within 48 hours by a written report if requested.</li> </ul>
<p>What information must a report include?</p>	<p>Not specified by statute. DHHR Bureau for Children and Families website states that the following information should be provided</p> <ul style="list-style-type: none"> <li>• Demographic information of the victim(s)</li> <li>• Type of abuse or neglect suspected</li> <li>• Whether the victim in imminent danger</li> <li>• Location of the victim and caregivers</li> <li>• Whether there a protective caregiver present</li> <li>• Whether the alleged perpetrator has access to the victim</li> <li>• General functioning of victim and caregivers</li> <li>• Any safety threats for first responders</li> </ul>
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> <li>• Immunity: Any person, official, or institution participating in good faith in any act permitted or required by this article is immune from any civil or criminal liability that otherwise might result by reason of those actions, including individuals making good faith reports of suspected or known instances of child abuse or neglect, or who otherwise provide information or assistance, including medical evaluations or consultations, in connection with a report, investigation or legal intervention pursuant to a good faith report of child abuse or neglect.</li> <li>• If a required reporter knowingly fails to report suspected or known child abuse or neglect or knowingly prevents another person acting reasonably from doing so, that person shall be guilty of a misdemeanor and, upon conviction, shall be confined in the county jail for not more than 90 days or fined not more than \$5,000, or both.</li> <li>• Any person, official or institution required by this article to report a case involving a child known or suspected to be sexually assaulted or sexually abused, or student known or suspected to have been a victim of any non-consensual sexual contact, sexual intercourse or sexual intrusion on school premises, who knowingly fails to do so or knowingly prevents another person acting reasonably from doing so, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more than 6 months or fined not more than \$10,000, or both.</li> <li>• Individuals may report suspected abuse or neglect if that person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.</li> <li>• In addition to those persons and officials specifically required to report suspected child abuse or</li> </ul>

	<p>neglect, any other person “may” make a report if such person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.</p> <ul style="list-style-type: none"> <li>• Any person who knowingly and intentionally reports or causes to be reported to a law-enforcement officer, child protective service worker, or judicial officer that another has committed child sexual abuse, child abuse, or neglect, who when doing so knows or has reason to know the accusation is false and who does it with the intent to influence a child custody decision shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than \$1,000, sentenced to not In any person convicted of a violation of this section shall be required to attend and complete a court-approved parenting class more than sixty hours of court-approved community service, or both.</li> <li>• Mandatory reporting requirements are not applicable to persons under the age of 18.</li> <li>• The privileged quality of communications between husband and wife and between any professional person and his or her patient or his or her client, except that between attorney and client, is hereby repealed in situations involving suspected or known child abuse or neglect.</li> </ul>
Statutory citation(s):	W. Va. Code §§ 7-10-2, 49-1-201; 49-1-202; 49-2-803; 49-2-807; 49-2-809, 49-2-810, 49-2-811,49-2-812; 61-8b-1; 61-8b-3 -5; 61-8b-7 -9; 61-6-25; W. Va. R. of Prac. and Proc. for Family Court 48.