

34 USC 20341 : Child abuse reporting

Text contains those laws in effect on January 30, 2018

From Title 34-CRIME CONTROL AND LAW ENFORCEMENT

Subtitle II-Protection of Children and Other Persons

CHAPTER 203-VICTIMS OF CHILD ABUSE

SUBCHAPTER IV-REPORTING REQUIREMENTS

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§20341. Child abuse reporting**(a) In general**

A person who, while engaged in a professional capacity or activity described in subsection (b) on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d) and to the agency or agencies provided for in subsection (e), if applicable.

(b) Covered professionals

Persons engaged in the following professions and activities are subject to the requirements of subsection (a):

- (1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, alcohol or drug treatment personnel, and persons performing a healing role or practicing the healing arts.
- (2) Psychologists, psychiatrists, and mental health professionals.
- (3) Social workers, licensed or unlicensed marriage, family, and individual counselors.
- (4) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.
- (5) Child care workers and administrators.
- (6) Law enforcement personnel, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.
- (7) Foster parents.
- (8) Commercial film and photo processors.

(c) Definitions

For the purposes of this section-

- (1) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;
- (2) the term "physical injury" includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;
- (3) the term "mental injury" means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;
- (4) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;
- (5) the term "sexually explicit conduct" means actual or simulated-
 - (A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;

- (B) bestiality;
- (C) masturbation;
- (D) lascivious exhibition of the genitals or pubic area of a person or animal; or
- (E) sadistic or masochistic abuse;

(6) the term "exploitation" means child pornography or child prostitution;

(7) the term "negligent treatment" means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and

(8) the term "child abuse" shall not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

(d) Agency designated to receive report and action to be taken

For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a). By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(e) Reporters and recipient of report involving children and homes of members of the Armed Forces

(1) Recipients of reports

In the case of an incident described in subsection (a) involving a child in the family or home of member of the Armed Forces (regardless of whether the incident occurred on or off a military installation), the report required by subsection (a) shall be made to the appropriate child welfare services agency or agencies of the State in which the child resides. The Attorney General, the Secretary of Defense, and the Secretary of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy) shall jointly, in consultation with the chief executive officers of the States, designate the child welfare service agencies of the States that are appropriate recipients of reports pursuant to this subsection. Any report on an incident pursuant to this subsection is in addition to any other report on the incident pursuant to this section.

(2) Makers of reports

For purposes of the making of reports under this section pursuant to this subsection, the persons engaged in professions and activities described in subsection (b) shall include members of the Armed Forces who are engaged in such professions and activities for members of the Armed Forces and their dependents.

(f) Reporting form

In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. **Use** of the form shall be encouraged, but its **use** shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(g) Immunity for good faith reporting and associated actions

All persons who, acting in good faith, make a report by subsection (a), or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses. Immunity shall not be accorded to persons acting in bad faith.

(h) Training of prospective reporters

All individuals in the occupations listed in subsection (b)(1) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

(Pub. L. 101-647, title II, §226, Nov. 29, 1990, 104 Stat. 4806 ; Pub. L. 114-328, div. A, title V, §575(b), Dec. 23, 2016, 130 Stat. 2142 .)

CODIFICATION

A prior subsec. (g) of section 226 of Pub. L. 101-647 enacted section 2258 of Title 18, Crimes and Criminal Procedure, and amended analysis for part I and heading and analysis of chapter 110 of Title 18.

Section was formerly classified to section 13031 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2016-Subsec. (a). Pub. L. 114-328, §575(b)(1), inserted before period at end "and to the agency or agencies provided for in subsection (e), if applicable".

Subsecs. (e) to (g). Pub. L. 114-328, §575(b)(2), (3), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.