

Child Abuse Reporting Laws

A. Child Abuse and Neglect Reporting Requirements

What Is A Child?

Generally, a child is anyone under 18 years of age. However, there are exceptions under Alaska law. For example, the law provides that a person attains the age of majority (and therefore is no longer considered to be a child for legal purposes) upon being married, unless that person is under the marriageable age of consent. That is, if a person has reached the age of 16 but is under the age of 18, he or she can legally be married if written consent is given by (i) both parents, (ii) custodial parent, or (iii) guardian.

In addition, a superior court judge may grant permission for a person who has reached the age of 14 but is under the age of 18 to marry if certain findings are made by the judge, including a finding that the marriage is in the best interest of the minor. Finally, a minor who has reached the age of 16, who is living separate and apart from his or her parents or guardian, and who is capable of sustained self-support and managing his/her own financial affairs, may petition the court to have the disabilities of minority removed for limited or general purposes.

What Is Child Abuse?

Child abuse includes the following: physical injury, sexual abuse, permitting or encouraging a child to engage in prostitution or pornographic activities, maltreatment that harms or threatens a child's health or welfare, or mental injury that impairs a child's ability to function.

What Is Child Sexual Abuse?

Child sexual abuse includes sexual activity ranging from non-violent, non-forcible and non-touching offenses (such as indecent exposure) to violent, forcible and touching offenses (such as fondling and intercourse). Legal definitions of child sexual abuse in the Alaska Criminal Code vary according to the age of the child, what was actually done to the child, and the offender's relationship to the child. (The State of Alaska Department of Law, 2005)

Child sexual abuse includes both touching and non-touching behaviors. Touching behaviors include: touching a child's genitals (penis, testicles, vulva, breasts, or anus) for sexual pleasure or other unnecessary reason; making a child touch someone else's genitals or playing sexual ('pants down') games; or putting objects or body parts (like fingers, tongue, or penis) inside the vulva or vagina, in the mouth, or in the anus of a child for sexual pleasure or other unnecessary reason. (STOP IT NOW! 2005)

Non-touching behaviors include showing pornography to a child; exposing a person's genitals to a child; photographing a child in sexual poses; encouraging a child to watch or hear sexual acts either in person or on a video; or watching a child undress or use the bathroom, often without a child's knowledge. (STOP IT NOW! 2005)

Are There Warning Signs A Child May Have Been Abused?

Some of these behavioral signs can show up at other stressful times in a child's life such as divorce, the death of a family member, friend, or pet, or when there are problems in school, as well as when abuse is involved. Any one sign does not mean the child was abused, but several of them mean that you should begin asking questions.

Behavioral Warning Signs A Child May Have Been Abused:

- Nightmares, trouble sleeping, fear of the dark, or other sleeping problems
- Extreme fear of "monsters"
- Spacing out at odd times
- Loss of appetite
- Sudden mood swings: rage, fear, anger, or withdrawal
- Fear of certain people or places (e.g., a child may not want to be left alone with a baby-sitter, a friend, a relative, or some other child or adult; or a child who is usually talkative and cheery may become quiet and distant when around a certain person)
- Stomach illness all of the time with no identifiable reason
- An older child behaving like a younger child, such as bed-wetting or thumb sucking
- Sexual activities with toys or other children, such as simulating sex with dolls or asking other children/siblings to behave sexually
- New words for private body parts
- Refusing to talk about a "secret" he/she has with an adult or older child
- Talking about a new older friend
- Suddenly having money
- Cutting or burning himself or herself as an adolescent

Physical Warning Signs A Child May Have Been Abused:

- Unexplained bruises, redness, or bleeding of the child's genitals, anus, or mouth
- Pain at the genitals, anus, or mouth
- Genital sores or milky fluids in the genital area
(STOP IT NOW! 2005)

What Is Child Neglect?

Child neglect is the failure by a parent, guardian, foster parent, or other person responsible for a child's welfare to provide necessary food, care, clothing, shelter, or medical attention for the child.

Child neglect can also include prohibiting a child from attending school. This may also include substantial risk of harm to a child caused by the addictive or habitual use of an intoxicant by the child's parent, guardian, foster parent, or other person responsible for the child's care.

When Should You Report Child Abuse or Neglect?

Certain people are required to report if they have reasonable cause to suspect child abuse or neglect. A person must only have to SUSPECT abuse to make the report, they do not need to investigate or have evidence. You can not keep information confidential when there is a threat or a danger to a child or when legal requirements demand a report.

Who Is Required To Report?

Mandatory reporters include mental health counselors, social workers, dentists, dental hygienists, health aids, nurses, nurse practitioners, certified nurse aids, occupational therapists and assistants, physical therapists and assistants, psychiatrists, psychologists, marital and family therapists licensed in Alaska, religious healing practitioners, surgeons, school teachers and school administrative staff members, police officers and Department of Corrections officers, hospital or clinical administrators, child care providers, paid employees of domestic violence and sexual assault (and crisis intervention and prevention) programs, paid employees of a drug or alcohol treatment facility, and members of a child fatality review team. Mandatory reporters MUST report child abuse and neglect, even outside of their job duties.

ANYONE may report a child's harm if they have reasonable cause to suspect the harm is a result of child abuse or neglect. A person who has reported suspected abuse is not liable for prosecution; however, a person who suspects abuse and does not report is liable for prosecution.

Who Else Is Required To Report?

A film developer who has reasonable cause to believe that material being developed or processed depicts a child engaged in pornographic activity must report this to the nearest law enforcement agency and provide all relevant information to that agency.

Is It Sufficient If I Just Report The Harm To My Supervisor?

No. Mandatory reporters must still report the abuse or neglect even if they report it to their supervisor.

Who Currently Is Not Required To Report Child Abuse Or Neglect?

Members of the clergy are not “mandatory reporters.” Clergy are able to report abuse or neglect to advocate for a child’s safety. These include ministers, priests, rabbis, or other individuals who perform similar functions for a religious organization.

When Must The Report Be Made?

A person who has reasonable cause to suspect child abuse or neglect must make a report within 24 hours of first learning about the suspected harm.

If A Child Is Harmed By Accidental Means, Is This Child Abuse?

No, the law does not consider an accidental injury to be child abuse.

Where Should The Report Be Made?

A person who is required to report MUST make the report to the nearest Office of Children’s Services (OCS) in order to fulfill the legal requirement to report. If a person reports to their supervisor or law enforcement, it does not satisfy the mandatory reporting obligation. If the child is in immediate danger, a dual report may need to be made to both OCS and law enforcement.

What Are The Telephone Numbers For Making The Report?

DHSS, Office of Children’s Services, Child Abuse Hotline: 1 (800) 478-4444. Local Law Enforcement (Police, Volunteer Public Service Officer (VPSO), and State Trooper): See local listing in Appendix D.

What Happens If A Mandatory Reporter Does Not Report?

A person who is required to report and fails to do so is **guilty** of a class B misdemeanor under Alaska state law.

What Happens If A Report Is Erroneously Made?

A person, who in good faith reports child abuse or neglect, is immune from civil or criminal liability. A person who has reported suspected abuse is not liable for prosecution; however, a person who suspects abuse and does not report is liable for prosecution.

Do I Need To Investigate Suspected Harm To A Child Before Making A Report?

No. The law does not require the person making the report to investigate suspected child abuse or neglect before they make the required report.

It is important to parents or caregivers to just hear the information (not ask for details) and reassure a child that:

- They are believed!
- It's not their fault!
- Something will be done about it.

ALSO, it's important not to confront the alleged abuser, keep the child safe, maintain normalcy in lives and help the child get the help they need. Source: *Resource Guide for Parents, Caregivers & Service Providers Working with Alaska Native Children (Alaska CARES)*.

What Happens After A Report Of Harm Is Made?

The Office of Children's Services (OCS) must investigate a Report of Harm (ROH) based on the following priority screening:

PRIORITY 1: Investigation within 24 hours of a report when a child is in imminent harm.

PRIORITY 2: Investigation within 72 hours when it is serious but no additional harm is feared.

PRIORITY 3: Investigation within 7 calendar days when the delay will not result in more harm.

A written report must be submitted to the Department of Law for review within 72 hours after completion of investigation. AS Title 47.10 Children in Need of Aid (CINA).

Law Enforcement takes the lead when it is a criminal case (has a law been broken?).

OCS takes the lead if it is a civil case (is a child in danger?).

If it is both a criminal and civil case, both agencies work together. During each investigation in response to reports of abuse & neglect, the OCS social worker will assess whether there is domestic violence occurring within the family and

consideration will be given to whether or not the child is at risk of serious physical/emotional harm as a result of the domestic violence. CINA Petitions (for removal) are sometimes filed due to DV in the home.