

# California Child Abuse and Neglect Reporting Law

2013



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## California Child Abuse and Neglect Reporting Law

The first child abuse reporting law in California was enacted in 1963. That early law mandated only physicians to report physical abuse.

Over the years, numerous amendments have expanded the definition of reportable child abuse and the persons required to report it.

It is important for mandated reporters to keep updated on periodic amendments to the law. Your local Child Abuse Prevention Council or county welfare department has current reporting law information. Also visit [www.leginfo.ca.gov](http://www.leginfo.ca.gov) for updated information on the law and any other code section referenced in this material.

The California Child Abuse and Neglect Reporting Law is currently found in **Penal Code (P.C.) Sections 11164 - 11174.3**. The following is only a partial description of the law. Mandated reporters should become familiar with the detailed requirements as they are set forth in the Penal Code.

### Who Are Mandated Reporters?

**P.C. 11165.7** defines “mandated reporters” as any of the following:

- 1) A teacher.
- 2) An instructional aide.
- 3) A teacher’s aide or a teacher’s assistant employed by any public or private school.
- 4) A classified employee of any public school.
- 5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
- 6) An administrator of a public or private day camp.
- 7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- 8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- 9) Any employee of a county office of education or the California Department of Education, whose duties bring the employee into contact with children on a regular basis.
- 10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.



- 11) A Head Start program teacher.
- 12) A licensing worker or licensing evaluator employed by a licensing agency as defined in P.C. 11165.11.
- 13) A public assistance worker.
- 14) An employee of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- 15) A social worker, probation officer, or parole officer.
- 16) An employee of a school district police or security department.
- 17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.
- 18) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
- 19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who is not otherwise described in P.C. 11165.7.
- 20) A firefighter, ***except for volunteer firefighters.***
- 21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- 22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.
- 23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.
- 24) A marriage, family and child therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.
- 25) An unlicensed marriage, family, and child therapist intern registered under Section 4980.44 of the Business and Professions Code.
- 26) A state or county public health employee who treats a minor for venereal disease or any other condition.
- 27) A coroner.

- 28) A medical examiner, or any other person who performs autopsies.
- 29) A commercial film and photographic print processor, as specified in subdivision (e) of P.C. 11166. For purposes of the California Child Abuse Reporting Law, “commercial film and photographic print processor” means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.
- 30) A child visitation monitor. For purposes of the California Child Abuse Reporting Law, “child visitation monitor” means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law.
- 31) An animal control officer or humane society officer. For purposes of the California Child Abuse Reporting Law, the following terms have the following meanings: (A) “Animal control officer” means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws and regulations. (B) “Humane society officer” means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.
- 32) A clergy member, as specified in subdivision (d) of P.C. 11166. For purposes of the California Child Abuse Reporting Law, “clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.
- 33) Any custodian of records of a clergy member, as specified in P.C. 11165.7 and subdivision (d) of Section 11166.
- 34) Any employee of any police department, county sheriff’s department, county probation department, or county welfare department.
- 35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the Rules of the Court.
- 36) A custodial officer as defined in Section 831.5 of the Penal Code.
- 37) Any person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.
- 38) An “alcohol and drug counselor” is a person providing counseling, therapy, or other clinical services for a licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not in and of itself a sufficient basis for reporting child abuse or neglect.
- 39) A clinical counselor trainee, as defined in subsection (g) of Section 4999.12 of the Business and Professions Code.

- 40) A clinical counselor intern registered under Section 4999.42 of the Business and Professions Code.
- 41) An employee or administrator of a public or private postsecondary institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.
- 42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.
- 43) (A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in the article, "commercial computer technician" means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communication service or a remote computing service to the public shall be deemed to comply with this Article if that employer complies with Section 2258A of Title 18 of the United States Code. (B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in the subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for the purposes of this article. A commercial computer technician who makes a report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.
- 44) Any athletic coach, including but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary institutions.

**NOTE:** Unless otherwise stated, **volunteers are not mandated reporters.**

## Why Must You Report?

The primary intent of the reporting law is to protect an abused child from further abuse. Protecting the identified child may also provide the opportunity to protect other children. It is equally important to provide help for the parents. Parents may be unable to ask for help directly, and child abuse may be their way of calling attention to family problems. The report of abuse may be a catalyst for bringing about change in the home environment, which in turn may help to lower the risk of abuse in the home. And lastly, it is the law.

## What Do You Have To Report?

Under the law, when the victim is a child (a person under the age of 18) and the perpetrator is any person (including a child), the following types of abuse must be reported by all legally mandated reporters:

- a. A physical injury inflicted by other than accidental means upon a child. **(P.C. 11165.6)** Note that child abuse does not include a “mutual affray” between minors. It also does not include an injury caused by “reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment.” **(P.C. 11165.6)**
- b. Sexual abuse of a child, including both sexual assault and sexual exploitation. “Sexual assault” includes sex acts with a child, lewd or lascivious acts with a child, and intentional masturbation in the presence of a child. “Sexual exploitation” includes preparing, selling, or distributing pornographic materials involving children; employing a minor to perform in pornography; and employing or coercing a child to engage in prostitution. **(P.C. 11165.1)**
- c. Willful harming or injuring of a child or the endangering of the person or health of a child, including inflicting or permitting unjustifiable physical pain or mental suffering. **(P.C. 11165.3)**

**NOTE:** Any mandated reporter **may** report any child who is suffering serious emotional damage or is at substantial risk of suffering serious emotional damage. **(P.C. 11166.05)**

- d. Willful infliction of cruel or inhuman corporal punishment or injury resulting in a traumatic condition. **(P.C. 11165.4)**
- e. Neglect of a child, whether “severe” or “general,” by a person responsible for the child’s welfare. The term “neglect” includes both acts or omissions harming or threatening to harm the child’s health or welfare. **(P.C. 11165.2)**



## When Do You Have To Report?

Child abuse must be reported when a mandated reporter, “in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.” **(P.C. 11166 (a))**

“Reasonable suspicion” occurs when “it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect.” **(P.C. 11166 (a)(1))** Although wordy, the intent of this definition is clear: if you suspect that abuse has occurred, make a report.

You must make a report immediately (or as soon as practicably possible) by phone and you must prepare and send, fax or electronically transmit a written report within 36 hours of receiving the information regarding the incident. **(P.C. 11166 (a))** Written reports must be submitted on Department of Justice form (SS 8572), which can be downloaded from the California Attorney General’s Website at [www.ag.ca.gov](http://www.ag.ca.gov) (click on Find a Form; click on Child Protection Program; click on Suspected Child Abuse Report Form, Form SS 8572 pdf). The mandated reporter may include with the report any non-privileged documentary evidence he or she possesses related to the incident.

## To Whom Must You Report?

The report must be made to any police department or sheriff’s department (not including a school police or security department), county probation department, if designated by the county to receive mandated reports, or county welfare department. **(P.C. 11165.9)** Any mandated reporter who knows or reasonably suspects that the home or institution in which the child resides is unsuitable for the child because of abuse or neglect shall inform the agency about the unsuitability of the home at the same time he or she reports the abuse or neglect. **(P.C. 11166 (f))**

When two or more persons who are required to report jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, a single person from the group may make the report. Any group member who knows that the report was not made, however, shall make the report. **(P.C. 11166 (h))**

## Immunity

Mandated reporters have immunity from criminal and civil liability for any report required or authorized under the Child Abuse Reporting Law. This immunity applies even though the knowledge or reasonable suspicion of abuse was acquired outside his or her professional capacity or outside the scope of his or her employment. **(P.C. 11172 (a))** And if a mandated reporter is sued for making a report, he or she may be able to receive compensation for legal fees incurred in defending against the action. **(P.C. 11172 (c))**

Any person who makes a report of child abuse, even though he or she is not a mandated reporter, has immunity unless the report is proven to be false and it is proven that the person either knew the report was false or made it with reckless disregard of its truth or falsity. (P.C. 11172 (d) (1))

## Additional Safeguards for Mandated Reporters

No supervisor or administrator may impede or inhibit a mandated reporter's reporting duties or subject the reporting person to any sanction for making a report. (P.C. 11166 (i)(1))

Any supervisor or administrator who violates the above cited code section is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000), by not more than six months in a county jail, or by both a fine and imprisonment. (P.C. 11166.01(a)) If however, death or great bodily injury happens to the child as a result of the abuse, the supervisor or administrator who impeded or inhibited the report is guilty of a misdemeanor punishable by not more than one year in a county jail, by a fine not to exceed five thousand dollars (\$5,000), or by both. (P.C. 11166.01(b))

The mandated reporter's identity is confidential and may only be disclosed to specified persons and agencies. (P.C. 11167 (d)(1))

Mandated reporters and others acting at their direction are not liable civilly or criminally for photographing the victim and including the photograph with their report. (P.C. 11172 (a)) A clergy member who acquires knowledge or a reasonable suspicion of child abuse during a penitential communication is not mandated to report the abuse. For purposes of the Child Abuse Reporting Law, "penitential communication" means communication, intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member. (P.C. 11166 (d)(1))

## Liability for Failure to Make A Required Report

A mandated reporter who fails to make a required report of child abuse is guilty of a misdemeanor punishable by up to six months in jail or by a \$1,000 fine or by both a fine and imprisonment. (P.C. 11166 (c)) If however, death or great bodily injury happens to the child as a result of the abuse, or if the mandated reporter willfully fails to report the abuse the mandated reporter is guilty of a misdemeanor punishable by not more than one year in a county jail, by a fine not to exceed five thousand dollars (\$5,000), or by both. (P.C. 11166.01 (b)) He or she may also be found civilly liable for damages, especially if the child-victim or another child is further victimized because of the failure to report. (*Landeros v. Flood* (1976) 17 Cal.3d 399.)

If a mandated reporter conceals his or her failure to report abuse or "severe" neglect, the failure to report is a continuing offense until the failure is discovered by an agency specified in Section 11165.9. (P.C. 11166(c)) Because it is a continuing offense, the statute of limitations does not start to run until the failure to report is discovered.



## Responsibilities of Agencies Employing Mandated Reporters

On and after January 1, 1985, with the exception of child visitation monitors, persons entering employment which make them mandated reporters must sign statements, provided and retained by their employers, informing them that they are mandated reporters and advising them of their reporting responsibilities and of their confidentiality rights. (P.C. 11166.5 (a))

On and after January 1, 1993, any person who acts as a child visitation monitor, prior to engaging in monitoring the first visit in a case, shall sign a statement provided and retained by the court which ordered the monitor's presence to the effect that he or she has knowledge of the provisions of the Child Abuse Reporting Law and will comply with them. (P.C. 11166.5 (a))

Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by the Child Abuse Reporting Law. Training in the duties imposed by the reporting law shall include training in child abuse identification and reporting. Whether or not employers provide their employees with training, they shall provide their employees who are mandated reporters with the statement required in subdivision (a) of Section 11166.5. (P.C. 11165.7 (c)) The absence of training shall not excuse a mandated reporter from the duties imposed by the reporting law. (P.C. 11165.7 (e))

**EXCEPTION:** Any person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institution Code shall not be required to make a child abuse report unless that person has received training, or instructional material in the appropriate language, on the duties imposed by the Child Abuse Reporting Law, including identifying and reporting abuse and neglect. (P.C. 11166.5 (e))

## Feedback to Mandated Reporters

Unless otherwise specifically provided, the investigation is completed or the matter reaches a final disposition, the investigating agency is obligated to inform the mandated reporter of the results of the investigation and any action the agency is taking with regards to the child or family. (P.C. 11170 (b)(2))

Please note that the California Child Abuse Reporting Law may have changed since the printing of this material. This material has been reprinted to assist mandated reporters in determining their reporting responsibilities. It is not intended to be and should not be considered legal advice. In the event there are questions about reporting responsibilities in a specific case, the advice of legal counsel should be sought.

*A special thank you to Delta Dental of California for their work in developing the original material.*

# GREATER BAY AREA Child Abuse Prevention Councils

## **ALAMEDA COUNTY**

To Report Child Abuse: 510-259-1800  
Child Abuse Prevention Council:  
510-780-8989  
Parental Stress Hotline: 510-893-5444  
[http://alamedasocialservices.org/  
public/services/community/partners/  
accapc/about.cfm](http://alamedasocialservices.org/public/services/community/partners/accapc/about.cfm)

## **CONTRA COSTA COUNTY**

To Report Child Abuse: 877-881-1116  
Child Abuse Prevention Council:  
925-798-0546  
[www.capc-coco.org](http://www.capc-coco.org)

## **MARIN COUNTY**

To Report Child Abuse: 415-473-7153  
Marin Child Abuse Prevention Council:  
415-507-0181  
[www.marinadvocates.org](http://www.marinadvocates.org)

## **MONTEREY COUNTY**

To Report Child Abuse: 831-755-4661  
Child Abuse Prevention Council:  
831-755-4474

## **NAPA COUNTY**

To Report Child Abuse: 707-253-4261  
Child Abuse Prevention Council:  
707-252-1123 ext. 106  
[www.copefamilycenter.org](http://www.copefamilycenter.org)

## **SAN FRANCISCO COUNTY**

To Report Child Abuse: 415-558-2650  
Child Abuse Council:  
415-668-0494  
TALK Line: 415-441-Kids  
[www.sfcapc.org](http://www.sfcapc.org)

## **SAN MATEO COUNTY**

To Report Child Abuse: 650-595-7922  
24 Hr. Parent Stress Warmline:  
1-888-220-7575  
[www.smcccat.org](http://www.smcccat.org)

## **SANTA CLARA COUNTY**

To Report Child Abuse:  
San Jose Area: 408-299-2071  
Gilroy/Morgan Hill Area: 408-683-0601  
Palo Alto Area: 650-493-1186  
Child Abuse Council:  
408-293-5450  
Parental Stress Hotline:  
408-279-8228

## **SOLANO COUNTY**

To Report Child Abuse: 800-544-8696  
Child Abuse Prevention Council:  
707-421-7229  
Solano Safequest: 866-4UR-SAFE or  
707-422-7345

## **SONOMA COUNTY**

To Report Child Abuse: 707-565-4304  
or 800-870-7064  
Prevent Child Abuse-Sonoma County:  
707-585-6108  
[www.preventchildabuse-  
sonoma-county.org](http://www.preventchildabuse-sonoma-county.org)



It Only Takes a Minute  
to Make a Difference  
in the Life  
of a Child