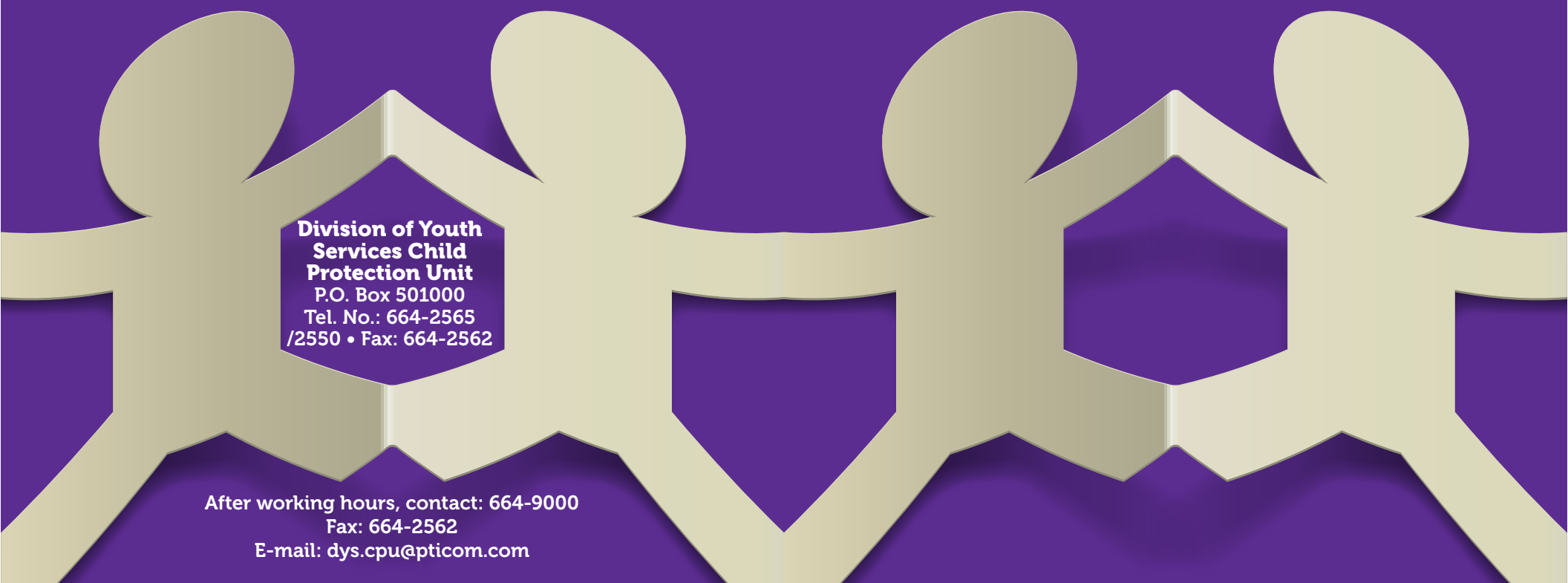


HANDBOOK

Commonwealth of the Northern Mariana Islands

A Guide for Mandated Reporters of Child Abuse & Neglect



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A **Guide** for
Mandated Reporters
of **Child Abuse**
& **Neglect**

A Publication of the
Child Protection Unit
of the Division of Youth Service
Saipan, CNMI

(Revised Edition)
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FOREWORD

This publication is a revised edition of an earlier publication [A Handbook for Education](#) issued in 1992.

The earlier handbook was compiled by the DYS' Resource Coordinator, Bion M. Blunt, and had contributed greatly to increase the educator's expertise and knowledge on child abuse and its complexities.

It is again our hope that with this handbook, you will gain important information on Child Abuse and Neglect. Please take the time to read and study this publication.

As a Mandated Reporter, you are required by law to report all cases of child abuse or suspected child abuse. Although you may have some reporting protocols in place. CNMI law requires that you report directly to the Department of Public Safety within 24 hours.

RECOGNIZING CHILD ABUSE OR NEGLECT

Maltreatment of children usually falls into one or more of four general areas:

- 1. NEGLECT**
- 2. PHYSICAL ABUSE**
- 3. SEXUAL ABUSE**
- 4. EMOTIONAL ABUSE**

Although some forms of abuse or neglect are more difficult to detect than others, there are signs or indicators, which, singly or together, suggest that a child may be in need of help.

These indicators basically are of two types:

- **Physical Indicators – such as the child's appearance (including physical injuries)**
- **Behavioral Indicators – such as behavior, which the child exhibits as a result of maltreatment.**

These indicators are clues. They should help you be tuned in to a child's possible need. It is not necessary to be sure a child is abused or neglected before reporting your concern. In fact, you are among the professionals mandated by the CNMI law to report child abuse and neglect. Anyone who reports possible abuse or neglect is immune from all civil or criminal liability regardless of whether later assessment substantiates or fails to substantiate the report.

A discussion of forms of abuse/neglect and common indicators follows. These are not meant to be all-inclusive, but should serve as clues.

CHILD ABUSE & NEGLECT

1. NEGLECT is failure to provide for a child's basic needs (**physical, emotional, educational and medical**).

Physical Neglect

PHYSICAL INDICATORS

- Abandonment
- Underweight, poor growth pattern

BEHAVIOR INDICATORS

- Inappropriate seeking of affection
- Assuming adult responsibilities and concerns

Emotional Neglect

INDICATORS

- Ignoring (consistent failure to respond to the child's need for stimulation, nurturance, encouragement, and protection or failure to acknowledge the child's presence),
- Rejecting (actively refusing to respond to the child's needs [e.g., refusing to show affection])
- Terrorizing (threatening the child with extreme punishment or creating a climate of terror by playing on childhood fears)

Educational Neglect

INDICATORS

- Failure to enroll mandatory school-aged child
- Chronic truancy

Medical Neglect

INDICATORS

- Failure to provide appropriate health/dental care for a child.
- Ignore or refuses medical recommendations for a child with a treatable chronic disease or disability, resulting in frequent hospitalizations or significant deterioration.

CHILD ABUSE & NEGLECT

2. PHYSICAL ABUSE is physical injury due to punching, beating, kicking, biting, shaking, or otherwise harming a child. Even if the parent or caretaker did not intend to harm the child, such acts are considered abuse when done purposefully.

PHYSICAL INDICATORS

- Bruise and welts
- Burns
- Bite marks

BEHAVIOR INDICATORS

- Fear
- Extreme aggressiveness
- Withdrawal

3. SEXUAL ABUSE includes fondling a child's genitals, incest, penetration, rape, sodomy, indecent exposure, and commercial exploitation through prostitution or the production of pornographic materials.

PHYSICAL INDICATORS

- Discomfort in the genital area
- Pregnancy/STD's
- Nightmares

BEHAVIOR INDICATORS

- Self-destructive behavior
- Guilt
- Fear

4. EMOTIONAL ABUSE is any patten of behavior that harms a child's emotional development or sense of self-worth. It includes frequent belittling, rejection, threats, and withholding of love and support.

PHYSICAL INDICATORS

- Failure to thrive
- Speech Disorders
- Alcohol and Drug use

BEHAVIOR INDICATORS

- Poor Self-Esteem
- Habit Disorders; sucking, biting, rocking
- Destructive Behaviors

SELECTIONS FROM THE COMMONWEALTH CODE RELATIVE TO CHILD ABUSE AND NEGLECT

Commonwealth Code
6 CMC, DIV. 5
CHAPTER 3
Abuse or Neglect of Children

Article 1. CHILD ABUSE OR NEGLECT: Duty to Report.

S5311. Purposes of Chapter

S5312. Child Abuse or Neglect

S5313. Duty to Report

S5314. Immunity from Liability

S5315. Failure to Report

Article 2. Protection of Abused or Neglected Children.

S5325 (b): Confidentiality of Records

S5311. Purposes of Chapter

This Chapter seeks to:

- a) Ensure that each abused child and the child's family receives such care, preferably in their own home, as will serve the emotional, mental, and physical welfare of the minor and the best interests of the Commonwealth; and
- b) Require reporting of child abuse incidents so such children and their families may be identified and given any treatment and assistance deemed to be in the best interests of the child and the Commonwealth.

S5312. Child Abuse or Neglect: Offense Defined

- a) A person commits the offense of child abuse if the person:
 - 1) Willfully and intentionally strikes, beats or by any other act or omission inflicts physical pain, injury or mental distress upon a child under the age of 18 who is in the person's custody, such pain or injury being clearly beyond the scope of reasonable corporal punishment, with the result that the child's physical or mental health and well-being are harmed or threatened; or
 - 2) Through willful or negligent act or omission fails to provide a child under the age of 18 who is in the person's custody with adequate supervision, medical care, food, clothing or shelter with the result that the child's physical or mental health and well-being are harmed or threatened
 - 3) Engages in or attempts to engage in an act of sexual molestation with a child under the age of 18 who is in the person's custody.
- b) Child Abuse does not include the exercise of reasonable and traditional parental discipline, which may be determined in reference to prevailing community and cultural standards.
- c) A person convicted of child abuse and neglect may be punished by imprisonment for not more than five years, a fine of not more than \$5,000 or both; however, the Court may upon conviction order that the person be provided with appropriate counseling to cure, alleviate or prevent psychological problems that are judged to be related to the child abuse and neglect incident.
- d) "Sexual Molestation" as used in this chapter means all conduct prohibited my Section 1311 of this title and Article 2 of this chapter, the Child Pornography Act.
- e) "In the person's custody" as used in this chapter means in the custody of the child's parent, guardian, foster parent, an employee of a public or private residential home or facility or any other person over the age of 18 responsible for the child's welfare in a residential setting.
- f) "Willful or negligent action or omission" as used in this chapter includes both negligent treatment and maltreatment as defined by federal regulation.

g) "Mental distress or injury" means an effect on the intellectual or psychological capacity of a child as evidenced by observable and substantial impairment of his ability to function within normal ranges of performance and behavior, with due regard to his culture.

S5313. Child Abuse and Neglect: Duty to Report

a) Any health care worker, school teacher or other school official, day care provider, counselor, social worker, peace officer or other law enforcement official who comes into contact in a professional capacity with a child who the person knows or has reasonable cause to suspect is abused, neglected or sexually molested by any person in a manner which harms or threatens harm to the child's physical or mental health and well-being shall report this knowledge or suspicion promptly to the Department of Public Safety or the Division of Youth Services. This notification shall be within 24 hours. The report shall contain a statement of the time, date, circumstances and details or information which gave rise to the reporting official's belief that abuse or neglect has or will occur. All such reports communicated to DPS may not be disclosed to the public.

**S5314. Child Abuse or Neglect: Duty to Report:
Immunity from Liability**

Any person making a good faith report shall be immune from civil or criminal liability which might otherwise arise from such action.

**S5315. Child Abuse or Neglect: Duty to Report:
Failure to Report**

Knowing or willful failure of any person required to make a report pursuant to 6 CMC §5313 shall, upon conviction, be punished by imprisonment for up to one year, or a fine of \$1,000, or both.

S5325. Confidentiality of Records

b) The release of data that would identify the person who made a report of suspected child abuse or neglect or person who cooperated in a subsequent investigation is prohibited.

WHY SHOULD I REPORT?

1. **YOU ARE REQUIRED BY COMMONWEALTH LAW TO DO SO.** Failure to report could result in a fine or imprisonment, or both (6 CMC, Div. 5, Chapter 3, Article 1, S5315)
2. **TO PROTECT THE CHILD.** You should not hesitate to report promptly. It is not the intent of the law to remove the child from the home unless the child clearly is in danger. Nor is it the intent of the law to punish the parents. Instead, in most cases, the family can be helped so that the parents and child can stay together. Understand that the intent of the law is to get help to the family.

In the CNMI, you are protected by law when you report what you suspect to be a case of child abuse or neglect. This means that you are protected or immune from civil or criminal liability. If you do not want to give your name when you report, that is fine. The case will still be investigated. Further, the identity of a reporter who made a report of suspected child abuse or neglect is strictly confidential and protected by law. (6 CMC Article 2. S5325b)

Public Law No. 12-82

Section 3.6 CMC §§1301-1311 are repealed and replaced by the following sections:

Sec. 1301. Sexual assault in the first degree

- (a) An offender commits the crime of sexual assault in the first degree if
- (1) the offender engages in sexual penetration with another person without consent of that person;
 - (2) the offender attempts to engage in sexual penetration with another person without consent of that person and causes serious bodily injury to that person;
 - (3) the offender engages in sexual penetration with another person

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- (A) who the offender knows is mentally incapable;
and
 - (B) who is in the offender's care
 - (i) by authority of law; or
 - (ii) in a facility or program that is required by law to be licensed by the commonwealth; or
- (4) the offender engages in sexual penetration with a person who the offender knows is unaware that a sexual act is being committed and
- (A) the offender is a health care worker; and
 - (B) the offense takes place during the course of professional treatment of the victim.
- (b) Sexual assault in the first degree is punishable by imprisonment for not more than 30 years, a fine of not more than \$50,000.00 or both, and the mandatory sentencing provisions of 6 CMC §4102.

Sec. 1302. Sexual assault in the second degree.

- (a) An offender commits the crime of sexual assault in the second degree if
- (1) the offender engages in sexual contact with another person without consent of that person;
 - (2) the offender engages in sexual contact with a person
 - (A) who the offender knows is mentally incapable; and
 - (B) who is in the offender's care
 - (i) by authority of law; or
 - (ii) in a facility or program that is required by law to be licensed by the Commonwealth;

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- (3) the offender engages in sexual penetration with a person who the offender knows is
- (A) mentally incapable;
 - (B) incapacitated; or
 - (C) unaware that sexual act is being committed; or
- (4) the offender engages in sexual contact with a person who the offender knows is unaware that a sexual act is being committed and
- (A) the offender is a health care worker; and
 - (B) the offense takes place during the course of professional treatment of the victim.
- (b) Sexual assault in the second degree is punishable by imprisonment of not more than 10 years, a fine of not more than \$10,000, or both.

Sec. 1303. Sexual assault in the third degree.

- (a) An offender commits the crime of sexual assault in the third degree if the offender
- (1) engages in sexual contact with a person who the offender knows is
 - (A) mentally incapable;
 - (B) incapacitated; or
 - (C) unaware that a sexual act is being committed;
 - (2) while employed in a Commonwealth correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, engages in sexual penetration with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment; or
 - (3) engages in sexual penetration with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Public Health and Environment Services under the Commonwealth's Civil or Criminal Commitment Laws, and the offender is the legal guardian of the person.

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- (b) Sexual assault in the third degree is punishable by imprisonment of not more than five years, a fine of not more than \$2,000, or both.

Sec. 1304. Sexual assault in the fourth degree.

- (a) An offender commits the crime of sexual assault in the fourth degree if
- (1) while employed in a Commonwealth correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, the offender engages in sexual contact with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment; or
 - (2) the offender engages in sexual contact with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Public Health and Environment Services under the civil or criminal commitment laws, and the offender is the legal guardian of the person.

- (b) Sexual assault in the fourth degree is punishable by imprisonment for not more than one year, a fine of \$1,000, or both.

Sec. 1305. Defenses.

- (a) It is a defense to a crime charged under 6 CMC § 1301(a)(3), 6 CMC § 1302(a)(2) or (a)(3), or 6 CMC § 1303(a)(1) that the offender is
- (1) mentally incapable; or
 - (2) married to the person and neither party has filed with the court for a separation, divorce, or dissolution of the marriage.
- (b) Except as provided on (a) of this section, in prosecution under 6 CMC § 1301 or 6 CMC § 1302, it is not a defense that the victim was, at the time of the alleged offense, the legal spouse of the defendant.

Sec. 1306. Sexual abuse of a minor in the first degree.

- (a) An offender commits the crime of sexual abuse of a minor in the first degree if
- (1) being 16 years of age or older, the offender engages in sexual penetration with a person who is under 13 years of age or aids, induces, causes, or encourages a person who is under 13 years of age to engage in sexual penetration with another person;

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- (2) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 18 years of age, and the offender is the victim's natural parent, step-parents, adopted parent, or legal guardian; or

- (3) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim.

- (b) Sexual abuse of a minor in the first degree is punishable by imprisonment for not more than 30 years, a fine of not more than \$50,000, or both, and the mandatory sentencing provisions of 6 CMC § 4102.

Sec. 1307. Sexual abuse of a minor in the second degree.

- (a) An offender commits the crime of sexual abuse of a minor in the second degree if
- (1) being 16 years of age or older, the offender engages in sexual penetration with a person who is 13, 14, or 15 years of age and at least three years younger than the offender, or aids, induces, causes or encourages a person who is 13, 14, or 15 years of age and at least three years younger than the offender to engage in sexual penetration with another person;
 - (2) being 16 years of age or older, the offender engages in sexual contact with a person who is under 13 years of age or aids, induces, causes, or encourages a person under 13 years of age to engage in sexual contact with another person;
 - (3) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian;
 - (4) being 16 years of age or older, the offender aids, induces, causes, or encourages a person who is under 16 years of age to engages in conduct described in 6 CMC § 1314(a)(2)-(6); or
 - (5) being 18 years of age or older, the offender engages in sexual contact with a person who is under 16 years of age, and

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- (A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or
- (B) the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the second degree is punishable by imprisonment for not more than 10 years, a fine of not more than \$10,000, or both.

Sec. 1308. Sexual abuse of a minor in the third degree.

- (a) An offender commits the crime of sexual abuse of a minor in the third degree if
 - (1) being 16 years of age or older, the offender engages in sexual contact with a person who is 13, 14, or 15 years of age and at least three years younger than the offender; or
 - (2) being 18 years of age or older, the offender engages in sexual penetration with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim.
- (b) Sexual abuse of a minor in the third degree is punishable by imprisonment for not more than 5 years, a fine of not more than \$2,500, or both.

Sec. 1309. Sexual abuse of a minor in the fourth degree.

- (a) An offender commits the crime of sexual abuse of a minor in the fourth degree if
 - (1) being under 16 years of age, the offender engages in sexual penetration or sexual contact with a person who is under 13 years of age and at least three years younger than the offender; or
 - (2) being 18 years of age or older, the offender engages in sexual contact with a person who is 16 or 17 years of age and at least years younger than the offender, and the offender occupies a position of authority in relation to the victim.
- (b) Sexual abuse of a minor in the fourth degree is punishable by imprisonment for not more than one year, a fine of not more than \$1,000, or both.

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Sec. 1310. General provisions.

- (a) In a prosecution under 6 CMC §§ 1306-1309 it is an affirmative defense that, at the time of the alleged offense, the victim was the legal spouse of the defendant, unless the offense was committed without the consent of the victim.
- (b) In a prosecution under 6 CMC §§ 1303-1309, whenever a provision of law defining an offense depends upon a victim's being under a certain age, it is an affirmative defense that, at the time of the alleged offense, the defendant reasonably believed the victim to be that age or older, unless the victim was under 13 years of age at the time of the alleged offense.

Sec. 1311 Incest.

- (a) A person commits the crime of incest if, being 18 years of age or older, that person engages in sexual penetration with another who is related, either legitimately or illegitimately, as
 - (1) an ancestor or descendant of the whole or half blood;
 - (2) a brother or sister of the whole or half blood; or
 - (3) an uncle, aunt, nephew, or niece by blood.
- (b) Incest is punishable by imprisonment for not more than five years, a fine of not more than \$2,000, or both.

Section 4. The following new sections, 6 CMC §§ 1314-1317 are hereby added:

Sec. 1314. Unlawful exploitation of a minor.

- (a) A person commits the crime of unlawful exploitation of a minor if, in the Commonwealth and with the intent of producing a live performance, film, audio, video, electronic, or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine, or other material that visually or aurally depicts the conduct listed in (1)-(7) of this subsection, the person knowingly induces or employs a child under 18 years of age to engaged in, or photographs, films, records or televises a child under 18 years of age engaged in the following actual or stimulated conduct:

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- (1) sexual penetration;
 - (2) the lewd touching of another person's genitals, anus, or breast;
 - (3) the lewd touching by another person of the child's genitals, anus, or breast
 - (4) masturbation;
 - (5) bestiality;
 - (6) the lewd exhibition of the child's genitals; or
 - (7) sexual masochism or sadism.
- (b) A parent, legal guardian, or person having custody or control of a child under 18 years of age commits the crime of unlawful exploitation of a minor if, in the Commonwealth, the person permits the child to engage in conduct described in (a) of this section knowing that the conduct is intended to be used in producing a live performance, film, audio, video, electronic, or electromagnetic recording photograph, negative, slide, book, newspaper, magazine, or other material that visually or aurally depicts the conduct.
- (c) Unlawful exploitation of a minor is punishable by imprisonment for not more than ten years, a fine of not more than \$10,000 or both.
- (d) In this section "audio recording" means a nonbook prerecorded item without a visual component, and includes a record, tape, cassette, and compact disc.

Sec. 1315. Indecent exposure in the first degree.

- (a) An offender commits the crime of indecent exposure in the first degree if
- (1) the offender violates 6 CMC § 1316;
 - (2) while committing the act constituting the offense, the offender knowingly masturbates; and
 - (3) the offense occurs within the observation of a person under 16 years of age.
- (b) Indecent exposure in the first degree is punishable by imprisonment for not more than five years, a fine of not more than \$2,000, or both.

Sec. 1316. Indecent exposure in the second degree.

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- (a) An offender commits the crime of indecent exposure in the second degree if the offender knowingly exposes the offender's genitals in the presence of another person with reckless disregard for the offensive, insulting, or frightening effect the act may have.
- (b) Indecent exposure in the second degree before a person under 16 years of age is punishable by imprisonment for not more than one year, a fine of not more than \$1,000, or both, and the mandatory sentencing provisions of 6 CMC § 4102. Indecent exposure in the second degree before a person 16 years of age or older is punishable by imprisonment for not more than six months, a fine of not more than \$500, or both.

Sec. 1317. Definitions.

For purposes of this chapter, unless the context requires otherwise.

- (1) "health care worker" includes a person who is or purports to be an anesthesiologist, acupuncturist, chiropractor, dentist, health aide, hypnotist, massage therapist, mental health counselor, midwife, nurse, nurse practitioner, osteopath, naturopath, physical therapist, physical therapy assistant, physician, physician assistant, psychiatrist
- (2) "incapacitated" means temporarily incapable of appraising the nature of one's own conduct or physically unable to express unwillingness to act;
- (3) "legal guardian" means a person who is under a duty to exercise general supervision over a minor or other person committed to the custody of the Department of Public Health and Environmental Services under the civil or criminal commitment laws of the Commonwealth as a result of a court order, statute, or regulation, and includes Department of Public Health and Environmental Services employees, foster parents, and staff members and other employees of group homes or youth facilities where the minor other person is placed as a result of a court order or the action of the Department of Public Health and Environmental Services, and police officers, probation officers, and social workers when those persons are exercising custodial control over a minor or other person;

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- (4) "mental incapable" means suffering from a mental disease or defect that renders the person incapable of understanding the nature or consequences of the person's conduct, including the potential for harm to that person;
- (5) "position of authority" means an employer, youth leader, scout leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian ad litem, babysitter, or a substantially similar position, and a police officer or probation officer other than when the officer is exercising custodial control over a minor;
- (6) "sexual act" means sexual penetration or sexual contact;
- (7) "sexual contact" means
 - (A) the defendant's
 - (i) knowingly touching, directly or through clothing, the victim's genitals, anus, or female breast; or
 - (ii) knowingly causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast;
 - (B) but "sexual contact" does not include acts
 - (i) that may reasonably be construed to be normal caretakers responsibilities for a child, interactions with a child, or affection for a child; or
 - (ii) performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the person being treated;

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- (8) "sexual penetration" means
 - (A) genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body;
 - (B) but "sexual penetration" does not include acts performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the person being treated;
 - (C) each party to any of the acts defined as "sexual penetration" is considered to be engaged in sexual penetration;
- (9) "victim" means the person alleged to have been subjected to sexual assault in any degree or sexual abuse of a minor in any degree;
- (10) "without consent" means that a person
 - (A) with or without resisting, is coerced by the use of force against a person or property, or by the express or implied threat of death, imminent physical injury, or kidnapping to be inflicted on anyone; or
 - (B) is incapable as a result of an act of the defendant.