

**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.

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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.

CHILD ABUSE AND NEGLECT

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 by Section 1311 of this title and Article 2 of this chapter, the Child Pornography Act.

A GUIDE FOR MANDATED REPORTERS

- 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 evidence 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.

CHILD ABUSE AND NEGLECT

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)