

APPENDIX B
PERTINENT LAWS REGARDING CHILD ABUSE
FOR
MARYLAND, VIRGINIA, WEST VIRGINIA, PENNSYLVANIA
and the
DISTRICT OF COLUMBIA

Marvland Child Abuse and Related Laws

Child Abuse: In Maryland Code, child abuse laws can be found both in the Family Law Article at Sections 5-701ff as well as in many places throughout the Criminal Law Article such as at Sections 3-601-602, 3-301ff and 11-207ff. You will find that when child abuse is discussed it is generally in reference to the laws found in the Family Law Article. In this section, child abuse is generally defined as injury to a child in which the child's health or welfare is harmed or put at substantial risk of being harmed, physically, emotionally, sexually or via neglect by the actions or failures to act of a parent or person with temporary or permanent responsibility for the child. Individuals who cause similar harms to a child with no legal responsibility for the child would be charged under the criminal statutes.

Reporters: Maryland law identifies those who are legally required to report suspected child abuse and neglect. These mandatory reporters are: health practitioner, police officer, educator, human services worker. Recently Maryland passed a new law which states that "a report is required when a person has reason to believe that a child has been subjected to abuse or neglect." There is an exception for ministers of an established church of any denomination who are not required to report if the disclosure was made under circumstances in which the minister is bound to maintain confidentiality. While this new law broadens the arena of who shall report suspected child abuse and neglect, the mandatory reporter sections in this law were maintained. Only time will tell how and to what extent Maryland will enforce this new provision.

When & Where to Report: A report must be made when a mandatory reporter or other individual has reason to believe that a child has been subjected to abuse or neglect. A report shall be made orally as soon as possible, and followed up with a written report within 48 hours thereafter. Reports should be made to the local department of social services in the location in which the abuse alleged occurred or to the local police. Maryland State provides a form to use for the written report as attached.

Past Abuse: The mandatory reporting requirements do not change if the abuse was alleged to have taken place some time ago, even years ago, and without regard for whether the alleged victim is now an adult or the alleged abuser is no longer living.

Immunity: Under Maryland law, reporters are immune to prosecution for making the report so long as the report was made in good faith.

West Virginia Child Abuse and Related Laws

Child Abuse: West Virginia defines child abuse and neglect as non-accidental harms or threats of harm to a child's physical, mental or emotional wellbeing by a parent, guardian or anyone responsible for the child's well-being. Additionally, West Virginia specifically includes the following within the definition of child abuse: attempted sale of a child, battered child syndrome, harms or threats of harm via domestic violence, and physical injury as a result of excessive corporal punishment. West Virginia's child abuse laws can be found in West Virginia Code § 49-6A-2 and the pertinent domestic violence laws at § 49-1-3(a)(4), (c).

Reporters: Mandated reporters, as they are termed in West Virginia, include mental, dental or medical professionals; Christian Science practitioners and healers; teachers or other school personnel; social service, child care or foster care workers; emergency medical services personnel; peace officers, law enforcement officials or humane officers; clergy; circuit court judges, family court judges, employees of the Division of Juvenile Services or magistrates; youth camp administrators, counselors, employees, coaches or volunteers of entities that provide organized activities for children; and commercial firm or photographic print processors. Note the specific inclusion of clergy, youth camps and organized activities for children.

The law also states that any person who has reasonable cause to suspect a child is abused or neglected *may* report. However, any person over the age of 18 who receives a disclosure from a credible witness or who observes any sexual abuse or sexual assault of a child *shall immediately* report, no more than 48 hours after receiving the disclosure or making the observation to the Department of Health and Human Services or the State Police or any other law enforcement agency with jurisdiction.

With the exception of the attorney-client privilege, the legal privileges that can be asserted to prevent forced testimony for some professionals such as by physician regarding his or her patients are suspended regarding suspected or known child abuse. Additionally, the husband-wife privilege cannot be invoked in situations involving suspected or known child abuse.

When & Where to Report: A report must be made by a mandatory reporter upon reasonable cause to suspect a child is being neglected or abused. The reporting process is to first make a verbal report to the State Police or any law enforcement agency. If requested, a reporter must make a follow-up written report within 48 hours.

Immunity: Persons, officials and any institution participating in good faith in any act required by the reporting laws shall be immune from any civil or criminal liability as a result.

Virginia Child Abuse and Related Laws

Child Abuse: In the Commonwealth of Virginia, laws regarding child abuse are found in that state's Code at § 63.2-100. Child abuse is defined as the actions or failures to act of a parent, guardian or another responsible for the child who creates, inflicts, or threatens to inflict or allows another to inflict physical, mental injury or sexual abuse or exploitation on a person under the age of 18. This specifically includes having a child in the presence of the manufacture of certain controlled substances, during the sale of such substances, as well as knowingly leaving a child alone in the same dwelling with another unrelated individual who has been convicted of an offense against a minor for which registration as a sexual offender is required.

Reporters: Mandatory reporters in Virginia are as follows: all persons licensed to practice medicine or any of the healing arts; hospital residents, interns and all nurses; social workers and probation officers; teachers & other employees at public or private schools, kindergartens and nursery schools; persons providing child care for pay on a regular basis; mental health professionals; law enforcement officers, animal control officers and mediators; professional staff of private or state-run hospitals, institutions or facilities to which children have been placed for treatment or care; adults associated with or employed by any public or private organization responsible for the care, custody or control of children; court-appointed special advocates; adults trained by Social Services to recognize and report child abuse and neglect; persons employed by local departments who determine eligibility for public assistance; emergency medical services personnel; persons employed by public or private institutions of higher learning; athletic coaches, directors or adults employed by or volunteering with private sports organizations or teams; and administrators or adult employees of public or private day camps, youth centers and youth recreation programs. Take special note of these last few mentioned mandatory reporters – youth recreation programs and camps.

Any person who suspects that a child is abused or neglected may report.

In Virginia, clergy are exempted as mandatory reporters if the following conditions are met: The clergy is a regular minister, priest, rabbi, imam or duly accredited practitioner of any religious organization or denomination usually referred to as a church as it relates to (i) information required by the doctrine of the religious organization or denomination to be kept in a confidential manner, or (ii) information that would be subject to a privilege in the context of testimony in court. Exemptions to reporting are not allowed due to husband-wife privilege or doctor-patient privilege.

When & Where to Report: Reporting is required when a mandatory reporter acting in his or her professional capacity believes there is reason to suspect a child is being abused or neglected. This includes finding controlled substances in a newborn or the finding of a newborn with an illness, disease or condition that to a reasonable degree of medical certainty is attributable to the *in utero* exposure of a controlled substance not legally prescribed.

Exceptions include children who in good faith are under treatment solely by spiritual means through prayer, in accordance with the tenets and practices of that religion.

The reporting process is to immediately report to the local department of social services in the geographic area in which the abuse is alleged to have occurred or to use the state hotline. If the alleged abuser is an employee of that department of social services, the report shall be made to the court for that area. The local department is responsible for the report to be reduced to writing on the prescribed form.

Immunity: Not directly addressed.

Pennsylvania Child Abuse and Related Laws

Child Abuse: Pennsylvania State laws on child abuse are located in the state statutes at Cons. Tit.23, § 630 3. This state's child abuse definition is inclusive of the acts of not only a child's legally responsible care-givers but also abuse by all others. Child abuse is non-accidental actions or inactions that cause serious physical or mental injury to a child or creates an imminent risk of serious physical or mental harm to a child. Serious physical harm includes bodily injury that causes severe pain or significantly impairs a child's physical functioning, either temporarily or permanently. Serious mental injury is defined as something that renders the child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that his or her life or safety is threatened. Sexual abuse and child neglect are also covered under these laws.

Reporters: Mandatory reporters include: licensed physicians, osteopaths, medical examiners, coroners, funeral directors, dentists, optometrists, chiropractors, podiatrists, interns, nurses or hospital personnel; Christian Scientist practitioners and members of the clergy; school administrators, teachers, school nurses, social services workers, day care workers, foster care workers; mental health professionals; and peace officers or law enforcement officials.

Any person who has reason to suspect that a child is abused or neglected may report.

A report is required when a person who in the course of employment, occupation or practice of a profession, comes into contact with children, has reasonable cause to suspect, on the basis of medical, professional, or other training and experience, that a child is a victim of child abuse.

Exceptions to the reporting requirement are made for attorney-client privilege and members of the clergy that are specially protected under Pennsylvania law regarding confidential communications. Other privileges such as doctor-patient are suspended as regards suspected child abuse.

When & Where to Report: The reporting process includes an initial immediate oral report followed by a written report within 48 hours. Reports are to be made to the Department of Public Welfare. Pennsylvania provides a form that is to be used for the follow-up written report, as attached.

Immunity: A person, institution or agency that participates in good faith in making a report whether required to or not shall have immunity from civil and criminal liability.

District of Columbia Child Abuse and Related Laws

Child Abuse: Child abuse laws for the District of Columbia are found in D C's Code at §16-2301. DC's definition of child abuse includes infliction of mental or physical injury, sexual abuse and exploitation as well as negligent treatment or maltreatment by a person responsible for the child's wellbeing.

Reporters: A report is required by a mandatory reporter when a person knows or has reasonable cause to suspect that a child has been or is in immediate danger or being mentally or physically abused or neglected.

Mandatory reporters in DC include: Child and Family Services Agency employees, agents and contractors; physicians, psychologists, medical examiners, dentists, chiropractors, registered nurses, licensed practical nurses or persons involved in the care and treatment of patients; law enforcement officers, humane officers; school officials, teachers or athletic coaches; Department of Parks and Recreation employees, public housing resident managers, social service workers or daycare workers; human trafficking counselors; domestic violence counselors or mental health professionals.

Exceptions include attorneys exercising the attorney-client privilege due to active representation of a client and in which the basis for the suspicion arises solely in the course of that representation. However, neither the doctor-patient nor the husband-wife privilege is permitted as regards suspected child abuse.

Any other person who knows or has reason to suspect that a child is being abused or neglected may report.

When & Where to Report: A report should be made when the reporter knows or has reasonable cause to suspect that a child known to him or her in his or her professional official capacity has been or is in immediate danger of being a mentally or physically abused or neglected child. The reporting procedures include making an immediate oral report to the police department or Child and Family Services Agency. A follow-up written report is to be made only upon request by the agency or police or if the abuse involves drug-related activity.

Immunity: Those making reports of suspected child abuse in good faith shall have immunity from civil and criminal liability.