



ABUSE REPORTING AND AFFIRMATIVE DUTIES

1 CEU

INTRODUCTION

Everyone in Virginia is a mandated reporter but some people are professionally mandated reporters. Every person has a responsibility to report suspected abuse or neglect. In addition, Virginia Law specifies professionals in certain occupations, including substance abuse and mental health as required to do so. These professionals are mandated to make a report if they have reasonable cause to suspect abuse, neglect or exploitation is of a child or a vulnerable adult.

Mandated Reporters of Child Abuse and Neglect

More than 1 million children are victims of child abuse and neglect each year. Many of these victims do not receive the help they need because their abuse or neglect isn't reported to the proper authorities to intervene or investigate. Some mandated reporters include, but are not limited to:

- Persons licensed to practice medicine or any of the healing arts
- Hospital residents or interns;
- Persons employed in the nursing profession;
- Eligibility workers in a local department of social services
- Social worker
- Probation officers
- Teachers or other persons employed in a public or private school, kindergarten, or nursery school
- Persons providing full or part-time child care for pay on a regular basis
- Mental health professionals
- Law enforcement officers
- Professional staff persons employed by a public or private hospital, institution, or facility in which children are placed
- Persons 18 years or older associated with or employed by any public or private organization responsible for the care, custody, and control of children
- Mediators certified to receive court referrals
- Volunteer Court Appointed Special Advocates (CASA)
- Persons employed by public or private institutions of higher education other than attorneys employed by institutions of higher education as it relates to information gained in the course of providing legal representation to a client
- Athletic coaches, directors or other persons 18 years of age or older, employed by or volunteering with a private sports organization or team
- Administrators or employees, 18 years of age or older, of public or private day camps, youth centers and youth recreation programs
- Any person 18 years of age or older, who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect. This reporting requirement shall not apply to any 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 § 8.01-400 or 19.2-271.3 if offered as evidence in court.

Definitions for Child Reports

Section 63.2-100 of the Code of Virginia defines an abused or neglected child as any child under 18 years of age whose parent or any person responsible for his or her care* (such as a child care provider, foster parent, or anyone responsible for the welfare of a child receiving residential care at an institution):

- Causes or threatens to cause a non-accidental physical or mental injury;
- Has a child present during the manufacture or attempted manufacture of a controlled substance or during the unlawful sale of such substance where such activity would constitute a felony violation;
- Neglects or refuses to provide adequate food, clothing, shelter, emotional nurturing, or health care;
- Abandons the child;
- Neglects or refuses to provide adequate supervision in relation to a child's age and level of development;
- Knowingly leaves a child alone in the same dwelling with a person, not related by blood or marriage, who has been convicted of an offense against a minor for which registration is required as a violent sexual offender; or
- Commits or allows to be committed any illegal sexual act upon a child, including incest, rape, indecent exposure, prostitution, or allows a child to be used in any sexually explicit visual material.
- In addition, newborn infants who have been medically diagnosed for exposure to non-prescription, controlled substances during pregnancy are also considered to be at risk of abuse or neglect. Health care providers are required to report these children.

*NOTE: Virginia law requires that mandated reporters report all cases of suspected child abuse or neglect to child protective services regardless of the abuser/neglector's relationship to the child.

Questionable situations

- Corporal punishment
- Abuse vs accidents
- Unsupervised children
- Failure to obtain medical care

There are also certain situations in which the abuse or neglect is outside the scope of Virginia CPS including educational neglect, lack of immunizations, failure to use vehicular safety belts or restraints, non-caretaker sexual abuse, out of state abuse by a non-resident and poverty.

Failure To Report

Mandated reporters who fail to report suspected child abuse or neglect, as soon as possible but no longer than 24 hours after having reason to suspect a reportable offense, shall be fined not more than \$500 for the first incident and \$1,000 for any subsequent incidents. Failure to report acts of rape, sodomy or object penetration may result in being charged with a Class 1 misdemeanor. All such incidents are referred to the local commonwealth's attorney. The Child Abuse and Neglect Hotline number is 1-800-552-7096.

LAWS RELATING TO VULNERABLE ADULTS

The majority of abusers to the elderly are family members, most often adult children, spouses, and partners. Research shows that family members who abuse drugs or alcohol, who have a mental/emotional illness, and who feel burdened by their caregiving responsibilities abuse at higher rates than those who do not.

Definitions for Adult Reports According to Virginia DSS

Physical or Verbal Abuse includes the willful infliction of physical pain, injury or mental anguish or unreasonable confinement wounds, scratches, bruises, burns, verbal assaults, threats, intimidation, broken bones, sprains, dislocations, shoving, beating, kicking, restrained, tied to bed or chair, locked in.

Neglect and Self-Neglect - Living under such circumstances that the adult is not able to provide, or is not provided, services to maintain physical and mental health and well-being including malnourishment; soiled bedding, furniture or clothing; unsafe or hazardous living conditions; lack of needed medication and lack of heat, running water, or electricity

Exploitation - means knowingly, by deception or intimidation, obtaining, or using, or attempting to obtain or use the adult's funds, assets, or property for another's advantage including missing personal belongings, changed will or POA, large bank withdrawals, unpaid bills, excessive payment for care or services, documents containing suspicious signature and more

Vulnerable adults are people 18 years or older and incapacitated or those 60 years old and older that may be impaired by one or more of the following:

- Mental Illness
- Physical Illness
- Mental or Physical Disability
- Advanced Age
- And More

Vulnerable adults lack the capacity and understanding to make reasonable decisions as they relate to their care or well-being.

There are certain barriers to reporting abuse such as:

- Victims may be afraid of retaliation, are ashamed that a family member mistreats them, or victims think no one will believe them.
- Sometimes people do not report abuse because they may not recognize the signs and symptoms, they may not know how to make a report, or may not want to get involved.
- Victims fear loss of a caregiver, even an abusing caregiver.
- Persons with disabilities are often taught to be compliant and passive and are sometimes unable to distinguish between appropriate and inappropriate physical contact.
- People, including professionals and law enforcement, often do not recognize abuse of persons with disabilities when they see it; they are often quick to dismiss the visible signs of abuse by saying it was probably caused by the person's disability.

Mandatory Reporters—although every person has a responsibility to report suspected abuse or neglect, some occupations are specified in Virginia law as required to do so.

Any person, including, but not limited to, any:

- Licensed, certified, or registered professionals as defined by health regulatory boards listed in 54.1-2503 of the Code of Virginia, except persons licensed by the Board of Veterinary Medicine
- Mental health services provider as defined in § 54.1- 2400.1
- Emergency medical personnel certified by the Board of Health pursuant to § 32.1-111.5;
- Guardian or conservator of an adult;
- Person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity;
- Person providing full, intermittent, or occasional care to an adult for compensation, including but not limited to companion, chore, homemaker, and personal care workers
- Law enforcement officers

Responsibilities of Mandatory Reporters

- Report incidents immediately
- Document the abuse and report to APS
- Share information with investigators
- HIPAA allows sharing of confidential information in abuse or suspected abuse situations in Virginia

Criminal Penalties

- A person who knowingly and willfully fails to report a case of known or suspected abuse, neglect, or exploitation of a vulnerable adult, or who knowingly and willfully prevents another person from doing so.
- A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse hotline, or in other computer systems, or in the records of any case of abuse, neglect, or exploitation of a vulnerable adult.
- A person who knowingly and willfully makes a false report of abuse, neglect, or exploitation of a vulnerable adult, or a person who advises another to make a false report. A false report is made with malicious intent. A false report is not: a) a Reports made in good faith, or b) A reports based on reasonable suspicion of abuse, neglect or abandonment.

SUMMARY

As a service provider you have the duty to make a report to the Child Abuse and Neglect Hotline at 1-800-552-7096 or the Adult Abuse Hotline at (888) 83-ADULT (832-3858) if you have a reasonable cause to suspect that a vulnerable adult is being abuse, neglected or exploited as well as reporting child abuse, neglect, or abandonment. If you fail to report a known or suspected case of abuse, neglect, exploitation or abandonment, it is a crime and you can face legal action including but not limited to:

- First failure punishable by a civil penalty of not more than \$500
- Subsequent failures may result in penalties between \$100 and \$1,000
- The court system will determine penalties for law enforcement personnel

When you have doubt about reporting a known or suspected case of abuse, speak to your supervisor immediately. It is always better to err on the side of safety and make a report rather than to ignore a situation. Remember, you are protected. The rights of mandated reporters include:

- Immunity from civil and criminal liability
- Protection of identity
- Permission to release confidential information without penalty

REFERENCES & REQUIRED READING

- https://dss.virginia.gov/files/division/dfs/mandated_reporters/cps/resources_guidance/B032-02-0280-00-eng.pdf
- https://dss.virginia.gov/files/division/dfs/mandated_reporters/aps/resources_guidance/Mandated_Reporters_10_2017.pdf