

## Reporting Child Maltreatment by Nonprofessionals: Obligatory or Discretionary?



**M**andated reporters are required to notify the appropriate authorities if, based on their training and experience, they suspect child abuse or neglect. Among the most obvious mandated reporters are health-care workers, teachers, and other school officials, social services workers, and law enforcement personnel. Even for a professional this may be a difficult decision. Lingering questions may cause the most seasoned professional to wonder whether reporting may put a child at greater risk than they are already. Nonetheless, they are required to report.

What about people who are not statutorily mandated? What is their responsibility for reporting suspected abuse? States vary in designating nonprofessionals (also known as “permissive reporters”) as obligatory reporters.

For instance, Rhode Island<sup>1</sup> provides that “**Any** person who has reasonable

cause to know or suspect that any child has been abused or neglected as defined in § 40-11-2 or has been a victim of sexual abuse by another child **shall**, within twenty-four (24) hours, transfer that information to the department of children, youth and families or its agent who shall cause the report to be investigated immediately” (emphasis added). Other states also require everyone to report: Delaware, Florida, Idaho, Indiana, Kentucky, Maryland, Mississippi, Nebraska, New Hampshire, New Mexico, North Carolina, Oklahoma, Tennessee, Texas, and Utah.

Most states are more permissive. For example, Virginia<sup>2</sup> holds that “**Any** person who suspects that a child is an abused or neglected child **may** make a complaint concerning such child...” (emphasis added). Similarly, Montana<sup>3</sup> provides that “**Any** person **may** make

a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected” (emphasis added).

What is the front-line attorney perspective? Texas attorney Elisa Maloff Reiter observes: “Where circumstances warrant, individuals should report abuse or neglect. Mandatorily. The floodgates will not open. The net effect will be the protection of those who may not be able to help themselves—our children.

So many times through the years I’ve been contacted by teachers, parents, doctors, or mental health professionals who feel they have an “out” to the mandatory reporting requirements. They feel it is their job to weigh the credibility of the person who made the outcry. There is little wiggle room for

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**Life Before APHSA:** I was an intern at the World Justice Project, working on multiple projects that surveyed the rule of law in various countries. I also completed three internships with the United States Human Rights Network, the International Rescue Committee, and Peacebuilding Solutions. I also worked as a fellow for the Carter for Governor campaign and as a canvasser and an organizer for the Affordable Care Act with Brass Tactics. I have a master's

degree in International Law and Human Rights from the United Nations Mandated University for Peace, and a bachelor's degree in Political Science with a concentration in International Affairs and a minor in Sociology from Georgia State University.

**What I Can Do for Our Members:** My goals are to provide state members with the full support needed to move forward with the successful administration of the Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC) and serve as a resource to the public on AAICPC endeavors.

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**When Not Working:** I enjoy spending time with my family, my fur babies: a tabby cat named Amani and a Yorkshire Terrier named Suri, and friends. I'm an avid reader who enjoys travelling, shopping, going to the beach, learning new languages and cultures, attending car exhibitions, and supporting humanitarian efforts.

**Motto To Live By:** Live, Love, Laugh. 📷

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professionals. They must report within 24 hours—and one can only hope that they have collected sufficient data to allow Child Protective Services to track the allegedly errant party. Individuals making reports of abuse or neglect may have ulterior motives. Professionals who are themselves party to such litigation may be motivated by a chance to win custody, viewing that as more important than the best interest of the child. An “innocent pat” may be perceived and presented as something far worse. For professionals and nonprofessionals, is there an ulterior motive other than the protection of the child? The average, reasonable person must be sensitive to outcries of abuse or neglect, and report abuse or neglect in appropriate circumstances. One can only hope that those assessing the report delve deeply enough to ascertain whether the individual's report may have been motivated by a spirit that falls short of altruism.”

Connecticut attorney Christina D. Ghio notes that in her state

“non-professionals are not mandated reporters. Only professionals are. That list of professionals is very broad. The law is silent as to reports by non-professionals, though they are clearly permitted and immunity is provided for any person who makes a report in good faith.<sup>4</sup> I think that strikes the right balance. Reporting is critical to protecting children. Anyone who works with children should be required to make a report if they suspect that a child is being abused or neglected. Professionals should be well-trained to ensure that mandated reporting laws are followed, and child welfare agencies should widely publicize information on how to report suspected child abuse or neglect. I don't think a law that mandates all citizens to report, however, is effective. In my view, that dilutes the mandate. Professionals need to know they will be held to a higher standard than the average citizen. They need to take the mandate

seriously. In addition, child welfare agencies can neither effectively train all citizens nor enforce such broad mandates. They should focus their time and resources on training those professionals who are most likely to encounter information about suspected child abuse and neglect.”

While everyone is concerned about child abuse and neglect, sometimes only specific professionals and other individuals are legally required to report it. For more information, state statutes and regulations should be carefully reviewed. 📷

### Reference Notes

1. RI Gen L § 40-11-3 (2012).
2. VA Ann. Code § 63.2-1510 (2016).
3. MT Ann. Code 41-3-201(j)(4) (2015).
4. Conn. Gen. Stat. Ann. § 17a-101e (b)

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