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LEGAL ASPECTS OF CHILD ABUSE AND NEGLECT AS RELATED TO THE
PUBLIC SCHOOLS

The University of North Carolina at Greensboro

Ed.D. 1986

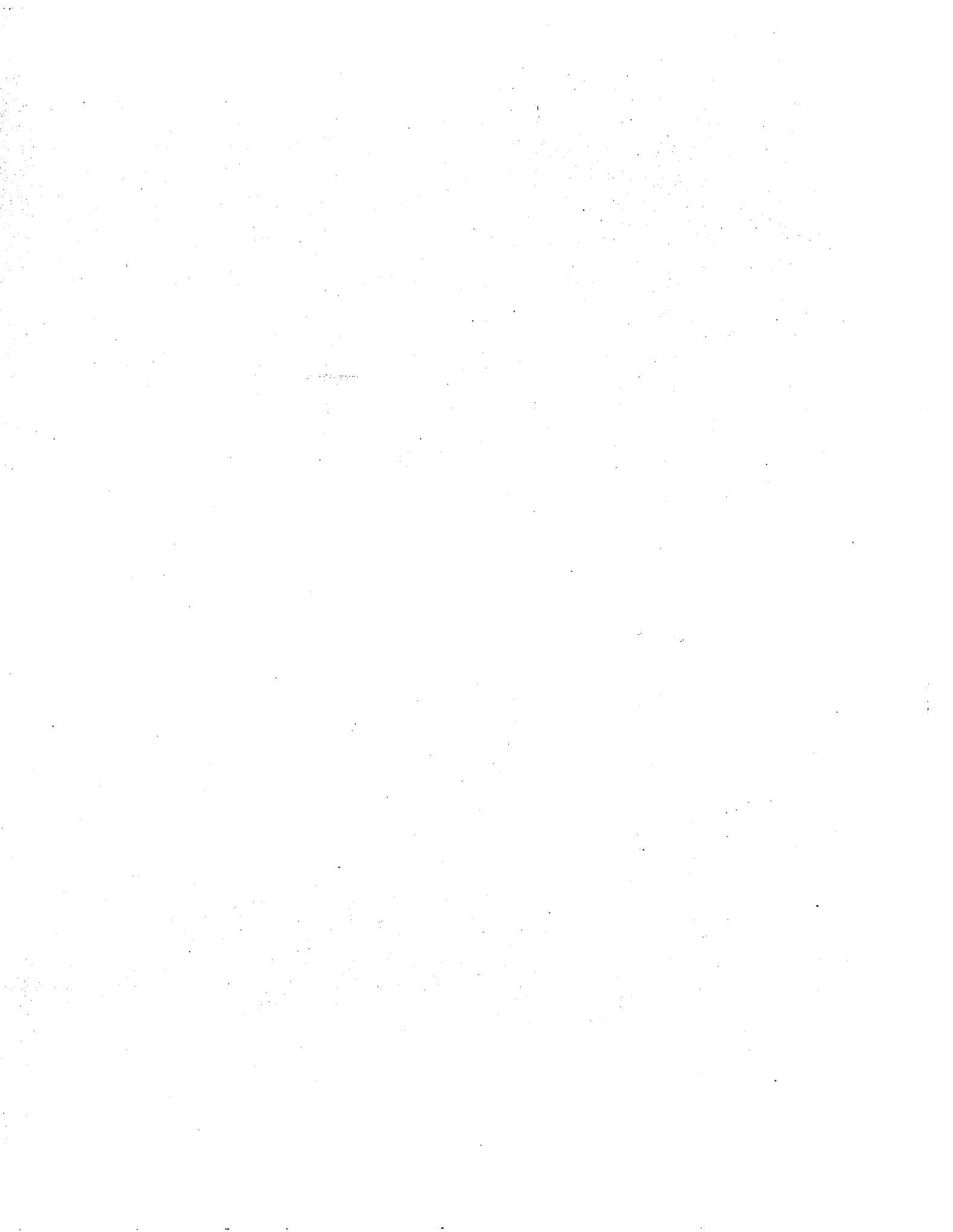
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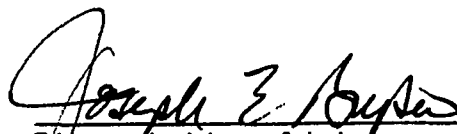
By

Martha Williford Jenkins

A Dissertation Submitted to
the Faculty of the Graduate School at
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of the Requirements for the Degree
Doctor of Education

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Approved by


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APPROVAL PAGE

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JENKINS, MARTHA WILLIFORD. Legal Aspects of Child Abuse and Neglect as Related to the Public Schools. (1986)
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Although the violent abuse of children is not a new phenomenon, public and professional concern over the plight of abused children has developed primarily in the last two decades in this country. Intense interest in the problem of child abuse was awakened when medical and other professional authorities recognized the "battered child syndrome" in the 1960's.

Child abuse and neglect usually takes place in the privacy of the home; therefore, no one knows exactly the number of children affected. In order for the child to be protected, child abuse must be discovered and reported. Much of the research indicates a majority of abuse and neglect goes unreported for various reasons.

Child abuse and neglect has evolved into a major responsibility of schools throughout the United States. The purpose of this study is to investigate and analyze major issues confronting elementary and secondary schools in dealing with child abuse and neglect. The three basic objectives of the study are: (1) to examine the history of child abuse and neglect; (2) to research and analyze the fifty states' statutes concerning identifying and reporting child abuse and neglect; and (3) to analyze the judicial decisions most directly related to the educator's decision-making responsibilities in child abuse and neglect activities.

Based on an analysis of legislative enactments and judicial decisions, the following conclusions are drawn:

1. The categories of professionals and sub-professionals mandated to report child abuse have been broadened.

2. There is a movement toward expanding the concept of "abuse" to be reported, so as to include sexual abuse and emotional abuse.

3. Since the Federal Child Abuse Prevention and Treatment Act of 1974, there is an increase in the number of states designating the state or county departments of social services as receiving agencies for child abuse reports.

4. Since the Federal Child Abuse Prevention and Treatment Act of 1974, there is increasing acceptance of the philosophy which favors the use of the social work process to assist the abused child and a rejection of criminal prosecution of abusing parents.

5. Since the Federal Child Abuse Prevention and Treatment Act of 1974, there is an increase in the number of states mandating the establishment of central registries for reporting child abuse and neglect.

6. There is an increase in the number of states requiring ongoing public and professional education and training programs.

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M W J

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Chapter I

INTRODUCTION

Public and professional concern over the plight of abused children has developed in the United States primarily in the last two decades.¹ Interest in the problem of child abuse was intensified when medical and other professional authorities recognized "the battered child syndrome" in the 1960's.²

In order for children to be protected, child abuse must be discovered and promptly reported. Research suggests that educators are reluctant to report child abuse for various reasons including (1) fear of prosecution by parents, (2) lack of diagnostic capabilities, (3) lack of confidence that a report will ultimately be effective, and (4) lack of clear guidelines in school policies regarding child abuse and neglect.³

¹Jody Aaron, "Civil Liability For Teacher's Negligent Failure To Report Suspected Child Abuse", Wayne Law Review 28 (1), (Fall 1981), p. 183.

²Ray E. Helfer and C. Henry Kempe, The Battered Child Syndrome, 1974 (2nd ed.), (Chicago, University of Chicago Press).

³Bruce Beezer, "Reporting Child Abuse and Neglect: Your Responsibility and Your Protection," Phi Delta Kappan 66, (February 1985), p. 435.

According to a 1984 study by the American Humane Association, the number of child abuse and neglect reports entering the Child Protective Services System yearly since 1976 has risen by 123 percent, and rates of reporting per 1,000 child population have increased from 10.1 in 1976 to 20.1 in 1982.⁴ While improvements in reporting systems, broadened reporting legislation, public awareness campaigns and the implementation of 24-hour hotlines have influenced this increase, there are indications that a significant proportion of all child abuse and neglect cases remain unreported.⁵

North Carolina's first reporting law, passed in 1965, provided for the voluntary reporting of child abuse or neglect. Since 1971 the law has mandated such reports⁶ and there are now four times more cases reported to the North Carolina Central Registry than were reported in 1971.⁷ Until the early 1960's there was no clear description of the school personnel's role in reporting incidents. During the period

⁴American Humane Association, Trends in Child Abuse and Neglect: A National Perspective, (Denver, Colo: American Humane Association, 1984), p. 47.

⁵Ibid.

⁶Janet Mason, Abuse and Neglect of Children and Disabled Adults. North Carolina's Mandatory Reporting Laws. Institute of Government, The University of North Carolina at Chapel Hill, 1984, p. 2.

⁷See Appendix B, p. 265.

from 1963 to 1967, all 50 states adopted reporting statutes that required physicians to report child abuse and neglect.⁶ By May of 1985, all 50 states had legislative enactments that also mandated reporting child abuse and neglect by school teachers and other school personnel (either by specific reference to such officials or through inclusion in a broader category of persons required to report the same).⁷

A historical overview of child abuse and neglect and the legal aspects of reporting are reviewed in this study in order that the judicial issues can better be interpreted. This study describes the past and present judicial positions with regard to child abuse reporting. Moreover, the current status of the fifty states' statutes in regard to reporting child abuse is reviewed. The overall purpose of this study is to provide appropriate information regarding the educational and legal aspects of reporting child abuse and neglect.

STATEMENT OF THE PROBLEM

Child abuse and neglect have evolved into major responsibilities of schools throughout the United States. Educators, by coming into daily contact with children, are in

⁶National Association of Secondary School Principals, "Child Abuse and Neglect," A Legal Memorandum, (Reston, Va., Nov. 1980)p. 2

⁷See Table V, pp. 69-70.

an excellent position to discover indications of possible child abuse and neglect and to help abused and neglected children and their families. School systems need specific comprehensive guidelines to use for action at local levels. A corresponding need for examining the legal issues associated with reporting child abuse and neglect by public school officials and consideration of problems inherent in child abuse reporting procedures has resulted.

QUESTIONS TO BE ANSWERED

One of the stated purposes of this study is to assist in the development of practical and legal guidelines for educational decision-makers to have when faced with child abuse and neglect. Below are listed several key questions which research needs to consider in order for the legal guidelines to be developed.

1. What are the major issues regarding child abuse and neglect that concern public elementary and secondary schools?
2. What are each state's provisions in regard to child abuse and neglect as defined by the respective state's governing statutes?
3. What Federal legislation has influenced the treatment of child abuse reporting in the public schools?
4. What case law has had an influence on reporting procedures in the public schools?

5. Based upon judicial decisions, what are future trends concerning child abuse and public education?

SCOPE OF THE STUDY

This is a study of the legislative enactments and judicial decisions regarding child abuse, neglect and the public schools in the United States. The research describes: (1) each state's legislative enactment(s) concerning child abuse and neglect and litigations that have resulted; (2) the reason for the litigation; (3) the results of the major court cases; and (4) the possible effects of these court decisions on school boards, administrators and teachers.

METHODS, PROCEDURES, AND SOURCES OF INFORMATION

The basic research method of this study is to examine and analyze the available references concerning the legal aspects of child abuse, neglect and the public schools.

To determine if a need existed for such research, a search was made of Dissertation Abstracts for related topics. Journal articles related to the topic were located through use of such sources as Reader's Guide to Periodical Literature, Educational Index, and the Index to Legal Periodicals.

General research summaries were found in the Encyclopedia of Educational Research, various books on school law, and in a review of related literature obtained through a computer search from the Educational Resources Information Center (ERIC).

Federal and state court cases related to the topic were located through use of the Corpus Juris Secundum, American Jurisprudence, the National Reporter System and the American Digest System. Recent court cases were found by examining case summaries contained in issues of the Nolpe School Law Reporter. All of the cases were read and placed in categories corresponding to the issues noted from the general literature review.

Other supplementary materials related specifically to national programs providing legal and technical support to child abuse representation projects were received from the National Legal Resource Center for Child Advocacy and Protection, the National Association of Counsel for Children, the National Center for Youth Law, the American Civil Liberties Union, Children's Rights Project, the Children's Defense Fund, the United States Department of Health and Human Services, the National Committee for Prevention of Child Abuse, and the American Humane Association.

Other sources of information were received from David Kennedy, County Attorney, and Rosemary Zimmerman, Director of Child Protective Services at the Cumberland County Department of Social Services, Fayetteville, North Carolina. Mary Lee Anderson, Program Manager and Supervisor of Child Protective Services from the North Carolina Department of Human Resources, Raleigh, North Carolina, supplied important statistics from the North Carolina Central Registry.

Mason P. Thomas, Jr., faculty member at the Institute of Government, University of North Carolina at Chapel Hill, North Carolina, assisted by sharing books, pamphlets, and his original law review articles, written in the 1970's. The law librarians and teaching assistants from the Campbell College Law School, Buies Creek, North Carolina, offered assistance in finding law cases, state statutory laws, and law review articles. Law review articles and assistance were also received from Wake Forest Law School, Winston Salem, North Carolina.

Kathern Bond, Editor of the magazine Protecting Children, Denver, Colorado, offered valuable insight into the development of child abuse and neglect programs regarding their past and future directions. Richard Tuyn, Oakland County, Michigan, School Board Attorney, discussed pertinent facts surrounding the case Beuning v. Waun. Jim Brantly, Supervisor of the Research Reading Room, National Committee for the Prevention of Child Abuse, Washington, District of Columbia, assisted with past research and offered materials available for present research.

DEFINITION OF TERMS

For the purpose of this study, the following selected terms are defined below:

Abused Juveniles.¹⁰ Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:

¹⁰N.C. Gen. Stat. 7A-517, p. 292.

a. Inflicts or allows to be inflicted upon the juvenile a physical injury by other than accidental means which causes or creates a substantial risk of death, disfigurement, impairment of physical health, or loss or impairment of function of any bodily organ; or

b. Creates or allows to be created a substantial risk of physical injury to the juvenile by other than accidental means which would be likely to cause death, disfigurement, impairment of physical health, or loss or impairment of the function of any bodily organ; or

c. Commits or allows the commission of any sexual act upon a juvenile in violation of law; commits, permits or encourages any act of prostitution with or by the juvenile; or

d. Creates or allows to be created serious emotional damage to the juvenile and refuses to permit, provide for, or participate in treatment. Serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal or aggressive behavior toward himself or others; or

e. Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile.

Caretaker.¹¹ Any person other than a parent who is in care of a juvenile, including any blood relative, stepparent,

¹¹Ibid.

foster parent, or house parent, cottage parent or other person supervising a juvenile in a childcare facility.

Custodian.¹² The person or agency that has been awarded legal custody of a juvenile by a court.

Delinquent Juvenile.¹³ Any juvenile less than 16 years of age who has committed a criminal offense under State law or under an ordinance of local government, including violation of the motor vehicle laws.

Dependent Juvenile.¹⁴ A juvenile in need of assistance or placement because he has no parent, guardian or custodian responsible for his care or supervision or whose parent, guardian, or custodian is unable to provide for his care or supervision.

In Loco Parentis.¹⁵ A person acting in loco parentis means one, other than a parent or legal guardian, who has assumed the status and obligation of a parent without being awarded the legal custody of a juvenile by a court.

Neglected Juvenile.¹⁶ A juvenile who does not receive proper care, supervision, or discipline from his parent, guardian, custodian, or caretaker; or who has been abandoned;

¹²Ibid.

¹³Ibid.

¹⁴Ibid.

¹⁵Ibid., p. 282 - 283.

¹⁶Ibid., p. 283.

or who is not provided necessary medical care or other remedial care recognized under State law; or who lives in an environment injurious to his welfare; or who has been placed for care or adoption in violation of law.

Petitioner.¹⁷ The individual who initiates court action, whether by the filing of a petition or of a motion for review alleging the matter for adjudication.

Child Protective Service.¹⁸ An agency in each county established for protective services for juveniles alleged to be abused, neglected, or dependent.

Punitive.¹⁹ Relating to punishment; having the character of punishment or penalty; inflicting punishment or a penalty.

Guardian Ad Litem.²⁰ An adult, often a member of the minor's family, who is appointed by a court to act in the minor's behalf ad litem (in a lawsuit), because minors lack the legal capacity to sue or defend against suit. Guardians ad litem are sometimes known as next friends. In child protection cases, usually an attorney, probation officer, or child protection worker is assigned to protect a child's

¹⁷Ibid.

¹⁸N.C. Gen. Stat. 7A-542, p. 287.

¹⁹Howard Davidson, Robert Harowitz, Thomas Marvell and Orm Ketcham, Child Abuse and Neglect Litigations: A Manual for Judges, National Center on Child Abuse and Neglect DHHS Publication No. 80-30268, (Mar. 1981) p. 15.

²⁰Ibid., p. 15.

interests in court. Under the Federal Child Abuse Prevention and Treatment Act of 1974, States cannot qualify for Federal grants unless they enact statutes providing guardian ad litem for all children involved in judicial proceedings arising from child abuse or neglect.

Prima Facie.²¹ "On its face". A prima facie case is one which has been proven sufficiently to sustain the charges, unless the defendant or parent can produce evidence in rebuttal.

Parans Patriae.²² "The power of the State". The State's power to act "for" or "on behalf of" persons under legal disability, such as minors, incompetents or insane persons.

Res Ipsa Loquitur.²³ Literally, "The thing speaks for itself". A legal doctrine of evidence which changes the ordinary rules affecting the burden of proof. It is used mainly in certain types of cases involving personal injury or property damage and has been applied by some courts to child abuse and neglect cases. When an injury occurs under circumstances which ordinarily indicate that someone must have been negligent or otherwise responsible for the injury,

²¹Henry C. Black (ed.), Black's Law Dictionary, 3rd ed., St. Paul, West Publishing Company, 1933, p. 1414.

²²Davidson, op. cit., p. 15

²³Black, op. cit., p. 1539.

it becomes the legal duty of that person to prove that he or she was not, in fact, negligent. When a small child or infant suffers certain types of injuries which do not ordinarily occur if the parent or caretaker who has responsibility and control of the child is protective and nonabusive, application of the doctrine requires the parent or caretaker to adequately explain how the injuries occurred other than by abuse or neglect. The doctrine is used in some abuse and neglect cases where the child victim is too young to testify and there are no eye-witnesses to the injurious conduct other than the parent or caretaker.

SIGNIFICANCE OF THE STUDY

In the last two decades an increased focus on the problem of child abuse and neglect has developed in the schools and community at large. Inherent in reporting child abuse and neglect is the concept of individual rights of parents and children. Children present a problem when viewed in relation to parental rights because children have traditionally been considered the property of their parents.²⁴

Until state laws were developed in the early 1960's throughout the country, a clear description of any formal role was lacking for schools and school personnel in the

²⁴Faye Huckabee. School Social Work: A New Approach To Child Abuse and Neglect. Unpublished thesis. University of North Carolina, Chapel Hill, N.C., 1979, p. 8.

identification and reporting of incidents involving possible child abuse and neglect. The benign posture of the schools appeared to range from lack of desire to get involved in family problems to a poor understanding of identification of actual child abuse and neglect. Lacking also was the proper action and procedure to be followed if such an identification were made.²⁵

The importance of the role of the school and its administrator is stressed by Broadhurst in The Educator's Role In the Prevention and Treatment of Child Abuse and Neglect. Educators work with and for children; law and policy command educator involvement; professional responsibility demands it; and educators have a deep sense of personal commitment to the children in their care. Schools are the only places in which children are seen daily over periods of time by professionals with an opportunity to observe their appearance and behavior. Not only does the school setting offer a continuum of time for observation, it offers the unique opportunity to compare and contrast behaviors which may be unusual.²⁶

The emotional trauma of the victimization, verbal, physical or sexual, is enormous. These traumatized children

²⁵A Legal Memorandum, op. cit., p. 1.

²⁶Diane D. Broadhurst, The Educator's Role in the Prevention and Treatment of Child Abuse and Neglect. Dept. of Health and Human Services, National Center on Child Abuse and Neglect, DHHS Pub. OHS 84-30172. Washington: Government Printing Office, 1984, p. 2.

can be found in classrooms across the nation, thus providing a compelling reason for educators to become involved in reporting child abuse. For many years it was thought that child abuse and neglect was a problem primarily of the very young child (under three years of age). According to Broadhurst, recent research, done by the American Association for Protecting Children, now indicates that more than half of the abused and neglected children in America are of school age. In some instances, a child may have been abused or neglected prior to reaching school age, but these situations may not come to any one's attention until the child enters school.²⁷

School personnel have not yet been the target of lawsuits for failing to report suspected cases of child abuse. Physicians have been the primary professional group that has been involved in litigation, but some analogous conclusions might be drawn for school administrators.²⁸ A California case, Robinson v. Wical, M.D. et al.,²⁹ involved a twelve year old boy who was brought to a hospital with severe injuries twice in a twelve hour period by his mother and a boyfriend; the physician failed to report either case. A day later the child returned to the hospital with permanent brain

²⁷Ibid., p. 6.

²⁸Memorandum, Nov 1980, p. 2.

²⁹Civil No. 37607 California Supreme Court.

damage. The boy's father sued the hospital for neglecting to report the injuries. The case was eventually settled out of court for \$600,000.³⁰

The civil liability implications of a person who fails to report under a state reporting statute was further discussed in the case Landeros v. Flood.³¹ A physician failed to report the child's condition as child abuse and the child was returned to her parents. Later the child received more injuries. While the trial court dismissed the complaint, the California Supreme Court reversed the dismissal and held that a doctor and a hospital may be liable for malpractice for failure to report a suspected case of child abuse.³²

Another key area of concern is whether a school administrator is negligent if he/she fails to instruct the faculty on child abuse and neglect statutes. To date this question has not been specifically addressed by the courts, but it is clear that the administrator has a moral and legal responsibility to see students in school protected and a professional responsibility to improve the competence of the staff.³³

³⁰Jo Ann Mazzarella, "Self Defense For Principals On Staying Out of Court, Part Two", Principal, Jan. 1983., p. 14.

³¹131 Calif. Rprt. 69, 551 P. 2d 389 (1976).

³²A Legal Memorandum, p. 3.

³³Ibid., p. 3.

Courts are especially careful in protecting a minor. Teachers and administrators have a special relationship with young children seeing them on a daily basis. The key legal concern in this relationship is reasonable foreseeability of potential harm to the minor. In the case Cox v. Barnes,³⁴ a principal was exonerated from liability in a child's drowning because he had foreseen the potential danger and had required a member of the faculty chaperoning the field trip to the pond area to be trained in life-saving skills. Failure of an administrator not to instruct a school staff on child abuse signs or reporting procedures could very well bring school officials within the perimeter of potential liability.³⁵

There have yet been very few cases nationally concerning liability for failure to report child abuse or neglect. Under the general principles of the law of negligence, civil liability is quite possible if a child is further harmed after any violation of any statutory duty to report past suspected abuse of that child. With the increasing expertise of guardians ad litem representing abused and neglected children and the rise in the recognition of children's rights, all persons with duties to report abuse should anticipate increased attention paid to reporting liability issues in cases where children are injured.³⁶ A new

³⁴469 S. W. 2d. 61, 1971.

³⁵A Legal Memorandum, p. 3.

³⁶Mason, op. cit., p. 16.

nationwide emphasis on the eradication of child abuse may precipitate future cases against school personnel.³⁷

Thus, this study is significant in providing a source of information and data concerning the child abuse and neglect reporting duties and responsibilities imposed on school personnel throughout the United States; it also provides insights relative to the historical development of these obligations and further insights into the possible future trends in this increasingly timely and significant topic. This study should be of value to legislators in evaluating existing legislation and to education decision-makers in establishing procedures to minimize exposure to liability in this area.

DESIGN OF THE STUDY

The remainder of the study is divided into three major parts. Chapter two reviews the literature related to the history of child abuse and neglect and the effect of history on legislative approaches.

Chapter three concentrates on the governing child abuse statutes of the 50 states. A review of each state's provisions for child abuse and neglect is presented using thirteen key issues in table form.

Chapter four contains a general listing and discussion of the litigated court cases which contain references to the

³⁷Mazzarella, op. cit., p. 14.

general topic of child abuse. The first category of cases includes those United States Supreme Court landmark decisions relating to broad constitutional issues of parental rights, children's rights and due process of law. Other categories of cases selected for review in this section include cases related to a child's testimony, the proper care of a child, parens patriae authority, warrantless visits, immunity and reporting procedures.

The concluding chapter of the study contains a summary of the information obtained from the review of the literature and from the analysis of the selected court cases. Future trends and recommendations concerning child abuse and public education are discussed in this chapter. Finally, a guideline is included from the National Center on Child Abuse and Neglect, Washington, D.C. for developing a system-wide policy for reporting child abuse.

Chapter II

REVIEW OF RELATED LITERATURE

OVERVIEW

I saw a child brought in, carried in a horse blanket, at the sight of which men wept aloud, and I heard the story of little Mary Ellen told again, that stirred the soul of a city and aroused the conscience of a world that had forgotten, and as I looked, I knew I was there where the first chapter of the children's rights was being written.

-Jacob Riis, police report 1874¹

Punishment for the mistreatment or murder of children (infanticide) can be found in the four thousand year old Code of Hammuarbi, and the laws of ancient Egypt and Rome.² The maltreatment of children, especially by use of the rod, has been justified for centuries by many parents and teachers.³ History reveals influential personages believed acts of severe punishment were necessary to maintain discipline and

¹Howard A. Davidson, Representing Children and Parents In Abuse and Neglect Cases, (Washington, D.C.: American Bar Association: Young Lawyers Division, 1980), pp. 1-2.

²Lloyd de Mause, The History of Childhood, (New York: Harper and Row, 1974), pp. 2-4.

³Samuel X. Radbill, "A History of Child Abuse and Infanticide" in The Battered Child, ed. Ray E. Helfer and C. Henry Kempe, (Chicago, University of Chicago Press, 1974), pp. 2-41.

to establish a proper atmosphere for teaching and learning.⁴

Urbanization and the industrial revolution in England and then in America led to other forms of child abuse in the eighteenth and nineteenth centuries through the exploitation of child labor. The factory system meant that children became an economic asset rather than a complete financial burden to their parents. In England children as young as five worked sixteen hours per day, sometimes with irons riveted around their ankles to keep them from running away. Some were starved, beaten, or maltreated in other ways, and many died from occupational diseases.⁵

The early philosophy of education also contributed to the harsh treatment of children. Children had a duty to learn, and effective learning could occur only under repressive conditions.⁶ Educational methods in England and America have fluctuated between harsh use of the birch and restrictions limiting corporal punishment advocated by educational reformers.⁷ According to Davidson the beating of

⁴Mason P. Thomas, "Child Abuse and Neglect Part I: Historical Overview Legal Matrix, and Social Perspectives," 50 North Carolina L. Rev., (Feb. 1972), p. 298.

⁵Radbill, op. cit., p. 12.

⁶Ibid., p. 4.

⁷Thomas, op. cit., p. 299.

children was a discipline practice recommended by experts⁹ and is still legally permitted in the public schools.⁷

MARY ELLEN

The judicial protection of children has its roots in the famous 1874 case of Mary Ellen. This case caused the first instance of a public outcry aroused by child abuse and eventually led to the passage of the Protective Service Acts and the Cruelty to Children Criminal Acts at the turn of the century.¹⁰ Mary Ellen, who was starved and repeatedly beaten by her foster parents, was unchained from her bed and taken from their home. Church workers brought a case on her behalf at a time when there were no laws protecting children from parental neglect.¹¹ According to Thomas it is significant that the first specialized groups to prevent cruelty were organized in behalf of animals. The American Society for the

⁹Davidson, op. cit., p. 1.

⁷Ingraham v. Wright, 430 U.S. 651 (1977) At the time of this decision, 21 states had adopted legislation specifically authorizing moderate use of corporal punishment in public schools, 2 states Mass. and N.J., had prohibited all corporal punishment in their public schools, and the remaining states preserved the common law rule permitting teachers to use "reasonable force" (51 L. Ed. 2d 711, 725, N. 23 and 28).

¹⁰Sanford Katz, Lillian Ambrosino, Melba McGrath, and Kitt Sawitsky, "Legal Research on Child Abuse and Neglect: Past and Future," 11 Family Law Quarterly, (Summer 1977), pp. 151-152.

¹¹Charles Sauls and Martha Wright, "Don't Violate The Law: Report Child Abuse/Neglect", Early Years (Feb., 1983), p. 57.

Prevention of Cruelty to Animals was organized in New York City in 1866 by Henry Bergh, who was its president in 1874 when a church worker sought his help in behalf of a child named Mary Ellen Wilson. Using the Society's legal adviser, Elbridge Gerry, to protect the child, the case received a great amount of press coverage, and as a result, Gerry organized the New York Society for the Prevention of Cruelty to Children in the same year.¹²

Thomas writes there is historical and legal confusion surrounding the story of Mary Ellen. The myth is an appealing story that appears very often in child protection literature and points up the new emphasis on child protection at the end of the nineteenth century.¹³ The historical facts are as follows:

The case arose in 1874, when Mary Ellen probably was ten years old. Laws to protect children (criminal laws forbidding assault and statutes dealing with the neglect of children) were not lacking but were not enforced systematically. The case was not brought into court by the Society for the Prevention of Cruelty to Animals on the theory that this child was entitled to the legal protection afforded animals; rather, it was initiated by the founder of this society acting as an individual, using the Society's attorney, by a petition for a writ de homine replegiando,¹⁴

¹²Thomas, op. cit., p. 307-308.

¹³Ibid., p. 308.

¹⁴According to Black's Law Dictionary (3rd ed., 1933) p. 514, this was an old English writ directed to remove the custody of one person from another.

on the basis of which the court issued a special warrant to bring the child before the court. Mary Ellen was not placed with the church worker but instead was placed temporarily (exactly where is unknown) for seven months pending efforts to locate relatives; when none could be found she was committed to the Sheltering Arms, an orphan asylum.¹³

The facts regarding Mary Ellen document the state of governmental neglect in the mid-nineteenth century child-placement and supervision practices and show the clear relationship between these practices and Mary Ellen's maltreatment.¹⁴

MEDICAL RECOGNITION OF THE BATTERED CHILD

In 1946 Dr. John Caffey published an article¹⁵ describing six children who suffered from chronic subdural hematoma. Cumulatively these six children had amassed twenty-three fractures.¹⁶ Dr. Caffey demonstrated how X-rays of young children revealed skeletal changes caused by trauma, although he did not interpret these findings as injuries willfully inflicted by the child's parents.¹⁷ In 1953

¹³Thomas, op. cit., p. 309.

¹⁴Ibid., p. 308.

¹⁵John Caffey, "Multiple Fractures of the Long Bones of Infants Suffering from Chronic Subdural Hematoma," 56 Am. Journal of Roentgenology, (1946), p. 163.

¹⁶Ibid., p. 165.

¹⁷Ibid., p. 176.

Dr. F.N. Silverman²⁰ reported the recognition of the radiographic changes constituted a distinct indication to investigate the possible traumatic circumstances causing the injuries.²¹ Drs. Woolley and Evans concluded in 1955 that some injuries in children they examined may well have been intentionally inflicted by the parents.²²

The most conclusive and influential study, however, was produced by Kempe, et al.²³ in 1961, who found hundreds of cases of children severely injured by their parents. The condition was given a new medical term by the authors, the battered child syndrome.²⁴ Kempe defined the syndrome as:

a clinical condition in young children who have received serious physical abuse, generally from a parent or foster parent. The condition has also been described as "unrecognized trauma" by radiologists, orthopedists, pediatricians, and social service workers. It is a significant cause of childhood disability and death. Unfortunately, it is frequently not recognized or if diagnosed is inadequately handled by the physician because of hesitation to bring the

²⁰F.N. Silverman, "The Roentgen Manifestation of Unrecognized Skeletal Trauma in Infants," 69 American Journal of Roentgenology (1953), p. 413.

²¹Ibid., p. 425.

²²Paul Woolley and W.A. Evans, "Significance of Skeletal Lesions in Infants Resembling Those of Traumatic Origin," 158 Journal American Medical Association, (1955), p. 539.

²³Henry Kempe, F.N. Silverman, B.F. Steele, W. Draegemueller and L.B. Silver, "The Battered Child Syndrome," 181 Journal American Medical Association, (1962), p. 17.

²⁴Ibid.

case to the attention of the proper authorities.²⁵

In 1961, the American Academy of Pediatrics conducted a symposium on the problem of child abuse under Kempe's direction;²⁶ this was the stimulus for the beginning of present day interest in child abuse.²⁷ Prior to that time very little medical or legal attention had been directed towards this problem.²⁸

Other pioneers in the social perspectives of child abuse in the early 1960's include Elmer²⁹ and Boardman³⁰ who offered the first suggestions as to how abused children, once identified, might be helped. Young's book, Wednesday's Children,³¹ presented the first serious case-method approach to the social and psychological possibilities for treatment of child abusers and their victims.

Helfer and Kempe in their book Child Abuse and Neglect: The Family and the Community submit that the problem of child

²⁵Ibid., p. 5.

²⁶Radbill, op. cit., p. 19.

²⁷Ibid.

²⁸Alan Sussman, "Reporting Child Abuse: A Review of the Literature," 8 Family Law Quarterly, (Fall 1974), p. 246.

²⁹E. Elmer, "Abused Young Children Seen In Hospitals," 5 Social Work, (1960), p. 98.

³⁰Helen Boardman, "A Project to Rescue Children From Inflicted Injuries," 7 Social Work, (1962), pp. 43-51.

³¹Leontine Young, Wednesday's Children, (New York, McGraw Hill Book Company, 1964).

abuse by parents presents itself in a variety of ways. They feel current causes of child abuse include teenagers and young adults who are ill prepared to function with their peers, much less raise the next generation, being thrust into roles of responsibility as parents.³²

There is no strata of our society currently giving the problem of abuse and neglect the attention it demands. Violence is glorified rather than abhorred on television; schools teach basket weaving rather than child and family development; over \$120 billion are spent to defend against a threat from without while our families, the core of our society, are being eroded with the cancer of abnormal rearing practices. Parenting practices in our society are likened to the great tree, standing erect, shielding us from the sun, only to fall one day from internal decay.³³

In 1976 Helfer and Kempe used the term "abused and neglected child" rather than "the battered child"; their concern was with the permanent effects on the developmental process of the child and the emotional scars, which they indicated was the most devastating aspect of abuse and neglect.³⁴

THE EXTENT AND IDENTIFICATION OF CHILD ABUSE AND NEGLECT

The best statistics available indicate that child abuse

³²Ray E. Helfer and C. Henry Kempe (eds.) Child Abuse and Neglect: The Family and the Community, (Cambridge, Ballinger Publishing Company, 1976), p. XVIII.

³³Ibid., p. XIX.

³⁴Ibid.

and neglect are serious problems in the U.S. In 1978 there were 614,291 reported incidents of child abuse and neglect.³⁵ In 1983 the American Humane Association Children's Division reported that the number of cases jumped from 416,000 in 1976 to 920,000 in 1982, an increase of more than 120 percent. It is estimated that only one in seven cases is reported.³⁶ The reported cases alone in North Carolina totalled almost 28,000 in 1983; the number of substantiated cases totalled 5,000 children. Neglect was by far the most frequently reported type of maltreatment. Emotional and medical neglect each exceeded 5 percent of neglect cases in North Carolina in 1983. Black and other minority children were disproportionately victims of neglect.³⁷ More than 13,700 children in North Carolina received protective services in 1982.³⁸ In 1983-84, 16 children died of child abuse or neglect in the state of North Carolina.

There were 1,512 reports of abuse and neglect in Cumberland County in 1984, involving 2,156 children; of this

³⁵American Humane Association, National Analysis of Official Child Neglect and Abuse Reporting (Englewood, Colo: American Humane Association, 1980).

³⁶"Child Abuse Reporting Improving, Watchdog Agency Says," The Fayetteville Times, (April 1984), p. 5C.

³⁷The State Of The Child In Cumberland County And In North Carolina, (Raleigh, North Carolina Child Advocacy Institute, Mar. 1985), p. 26.

³⁸Ibid., p. 26.

number, 448 were substantiated. The fourth most populous county, Cumberland County was second in the state of North Carolina in reports and substantiations. In the last 6 years Cumberland County has had a 48 percent increase in referrals. Twenty-seven percent of 1984 reports were abuse. Of a total of 483 children in foster care in 1984, 54 percent were in care as abused or neglected children. The Cumberland County Protective Services units were serving 900 children and their families in September, 1984.³⁷

Theresa Costello, spokeswoman for the American Humane Association, said a total of 484 abuse-related child deaths occurred in 1981 in the 24 states that record such fatalities. She foresees greater sophistication in state reporting systems and greater public awareness.⁴⁰ Costello says the study, Trends In Officially Reported Child Neglect and Abuse in the United States⁴¹ showed that seven was the average age of maltreated children, but sexual abuse victims tended to be older and children who died after being abused were younger.⁴²

³⁷Stauffer, P. "Data Show Cumberland 2nd Highest in Abuse," The Fayetteville Times, (Mar. 1984), p. 6A.

⁴⁰The Fayetteville Times, (April 1984), op. cit., p. 5C.

⁴¹American Humane Association, Trends in Officially Reported Child Neglect and Abuse in the United States, (Englewood, Colo: American Humane Assoc., 1982).

⁴²The Fayetteville Times, (April 1984), op. cit., p. 5C.

Abuse and neglect is one way of behaving toward children. In the worst of circumstances, when some child is dead or disfigured, or perhaps a victim of permanent emotional crippling, then people can see the harm clearly and denounce it. The further from this extreme, unfortunately, the more difficult is the judgment as to whether abuse or neglect is occurring and what must be done to prevent it and protect the child. Respect for individual privacy, ambiguous legal codes, strong emotions such as fear and love, cultural child rearing differences, family stresses, and the biases of observers all conspire to make complex the task of recognizing and rectifying child abuse and neglect.⁴³

Besharov and Duryea report a recurring theme expressed at the New York State Assembly Committee on Child Abuse was the lack of sensitivity on the part of child care professionals and the community to the problem of child abuse. This insensitivity is the result of both a lack of education in this area and disbelief that such maltreatment actually occurs. In addition, difficulty in diagnosis was frequently cited.⁴⁴

⁴³Barbara Caulfield, Child Abuse And The Law, (Chicago, National Committee For Prevention of Child Abuse, 1979), p. 4.

⁴⁴Douglas Besharov and Perry Duryea, "Report of the New York State Assembly Select Committee on Child Abuse, April 1972," in Helfer, R.E. and Kempe, C.H. (Eds.), The Battered Child, 2nd ed. (Chicago, University of Chicago Press, 1976), p. 234.

The committee concluded that the single most effective method of encouraging fuller reporting was to educate professional personnel. Child care professionals, including physicians, nurses, social workers, and teachers, must be trained in its identification, and must be instructed in reporting procedures. An educational program would also seek to explain that child protective procedures are not punitive in nature—that their purpose is the protection of the child and rehabilitation of the family.⁴⁵

During the past two decades the group of professionals mandated to report has been expanded broadly. A few commentators have disagreed with this trend and have argued that the obligation to report should rest solely with the medical profession.⁴⁶ A critical evaluation of the dynamics of child abuse, however, strongly supports the contention that there should be a broad base of mandated reporters. Child abuse is a pattern of behavior. The longer the abusive behavior continues, the more severe the damage to the child.⁴⁷ In most cases a physician only sees the child when the injuries are so severe that they require immediate medical attention. The physician in these cases has the opportunity of identifying the severe case of child abuse. A more prudent approach would seem to dictate a system which

⁴⁵Ibid. p. 230.

⁴⁶Ibid.

⁴⁷Ibid.

identifies the child before the damage becomes too severe.⁴⁸

Brian Fraser, a staff attorney for the National Center for The Prevention of Child Abuse and Neglect, has stated the sad, ugly fact is that child abuse is not a one-time affair, but an ongoing trauma. It has been noted that the severe, permanent damage associated with the battered child syndrome usually is not inflicted with the initial incident. Consequently, identification of abuse at this point can make possible the intervention necessary to prevent subsequent trauma and irreversible injury to the child.⁴⁹ The most advantageous technique is to make contact with the abusive parents as soon as possible, before the child has been seriously abused.⁵⁰

THE ROLE OF THE EDUCATOR

Educators have a keen sense of professional responsibility for the children in their care. They are concerned about these children, about their health, their safety, and their happiness. Educators are aware that they are both models and examples for the children they teach, and that

⁴⁸B.G. Fraser, "A Glance at the Past, A Gaze at the Present, A Glimpse at the Future: A Critical Analysis of the Development of Child Abuse Reporting Statutes," 54 Chicago-Kent Law Review (1978), p. 657.

⁴⁹Brian Fraser, "A Pragmatic Alternative to Current Legislative Approaches to Child Abuse," 12 American Criminal Law Review (1974), p. 121.

⁵⁰Ibid., p. 122.

they are a readily available source of support, concern, and caring for many children.³¹ Child abuse and neglect have been a concern of social work and of medicine for many years, but only recently has education been involved.³² Because schools are concerned with the whole child, seeking help for the child in trouble is quite compatible with the educational objectives. The emotional impact of serious neglect and abuse often sets up blocks which inhibit and create learning disabilities for the child victim.³³

Under the reporting laws, school personnel share with other professionals the higher legal duty to report suspected cases of child abuse or neglect. Perhaps of all professional groups, teachers and others in schools have the greatest opportunities to observe and report, and thereby protect children who may be victims of abuse or neglect.³⁴ The school is a focus of attention, the community center, for

³¹Diane D. Broadhurst, The Educator's Role in the Prevention and Treatment of Child Abuse and Neglect. Dept. of Health and Human Services, National Center on Child Abuse and Neglect, DHHS Pub. OHDS 84-30172. Washington: Government Printing Office, 1984, p. 11.

³²Jeanette Fairorth, Child Abuse And The School, (Palo Alto, California, R & E Research Asso., 1982), p. 54.

³³Education Commission of the States, Teacher Education: An Active Participant in Solving the Problem of Child Abuse and Neglect, Report No. 99, (Denver, Colorado, Education Commission of the States, April 1977).

³⁴Mason Thomas, The Child Abuse Reporting Law: Protecting Children Becomes a Broader Community Responsibility, 2nd ed., (Chapel Hill, Institute of Government, 1976), pp. 14-15.

many people. The general public seeks out the school principal or a teacher for help in a variety of situations, some of which are critical to a child's well-being. Obviously, the school cannot be all things to all people, but it is the focal point. Thus the school can become a clearinghouse or resource center in child abuse/neglect cases.⁵⁵

Unlike his relationship with other professionals, a child's relationship with his teacher is not subject to the whim of his parents. Children are not required to visit medical, dental, psychological, or other professionals. The opportunity for discovery of abuse is thus greatly enhanced in the school setting, and the teacher is the most likely person to discover it. The fact that teachers have contact with children at a relatively early age enables them to facilitate and contribute to early detection of the problem.⁵⁶

Although school personnel are generally mandated to report suspected abuse or neglect, the requirement is widely disregarded. While some two-thirds of the victims of child abuse and neglect are school age children, educators account for fewer than one-third of the reports.⁵⁷ Teachers,

⁵⁵Lynn Fossum and Lauralee Sorensen, "The Schools See It First: Child Abuse and Neglect." Phi Delta Kappan 62 (4): 274, December 1980.

⁵⁶Jody Aaron, "Civil Liability For Teacher's Negligent Failure To Report Suspected Child Abuse," 28 Wayne Law Review, (Fall 1981), p. 211.

⁵⁷Diane Broadhurst, "What Schools are Doing About Child Abuse and Neglect," Children Today, January/February 1978, pp. 22-36.

administrators, even school social workers and nurses, are reluctant to identify abuse and neglect. There are seldom clear-cut channels for reporting and the extent of the school's involvement is uncertain. Yet few professions are more genuinely concerned about children. The school's failure to report suspected cases is due in large part to a lack of understanding of results to be expected.³⁸ The research suggests that the main reasons are that educators (1) report only major injuries, (2) have no medical diagnostic capabilities, (3) are hesitant to get involved for fear of prosecution by parents, and (4) believe no action will be taken on the report.³⁹

The state legislatures have realized that any effective remedy to the abuse problem would require that all suspected cases of abuse be reported to the authorities.⁴⁰ Criticism of imposing civil liability on teachers who negligently fail to report suspected cases of child abuse is inevitable, but the foremost criticism advanced is that

³⁸James Delaney, "New Concepts of the Family Court" in Helfer, R.E. and Kempe, C.H. (eds.) Child Abuse and Neglect: The Family and The Community (Cambridge, Ballinger Publishing Co., 1976), p. 342.

³⁹Bruce Beezer, "Reporting Child Abuse and Neglect: Your Responsibility and Your Protection," Phi Delta Kappan 66, (February 1985), p. 435.

⁴⁰M.G. Paulsen, "Child Abuse Reporting Laws: The Shape of the Legislation," 67 Columbia Law Review (1967), p. 1.

teachers, unlike physicians, do not have any specific expertise in recognizing or diagnosing physical conditions such as the child abuse syndrome.⁶¹

Drs. Brown, Fox and Hubbard contend school personnel feel that if they are to report cases of abuse they too should be granted immunity. If non-medical people who work with children are elevated to the status of medical diagnosticians, inaccurate reports are apt to be filed. Doctors possess the specific medical knowledge that is necessary to make a differential diagnosis of the child's injuries, and their expert medical evidence should be of more value when presented in court.⁶² Mawdsley and Permuth contend it has become increasingly obvious that many teachers simply do not report suspected child abuse. The presence of penal sanctions for non-reporting and civil immunity as a result of reporting have apparently not been enough incentive for school personnel to report child abuse. They believe it may be time to amend child reporting statutes to reflect the practical reality in schools. Either mandated reporting statutes should be consistently enforced against school personnel who will not report suspected abuse, or the statutes must be modified to reflect the common practice in

⁶¹Ibid., pp. 7-8.

⁶²R.H. Brown, E.S. Fox and E.L. Hubbard, "Medical and Legal Aspects of the Battered Child Syndrome," Chicago - Kent L. Rev. (Fall/Winter 1972), p. 45.

which teachers and other school personnel exercise judgment concerning reporting.⁴³

Cases of abuse are not isolate incidents. Aaron contends the teacher should be held liable for repeated abuse cases.

Episodes of abuse are not isolated incidents and tend to increase in severity with each occurrence. The promulgation of reporting statutes themselves attests to the fact that the enacting legislatures presume repeated abuse is foreseeable. Therefore, once a teacher suspects that a child has suffered abuse, he should also reasonably expect that child will be abused again. Where a teacher fails to report an incident which he knew or should have known to be abuse-related, he could thus be liable for any abuse thereafter inflicted upon the child.⁴⁴

Failure of an administrator to take reasonable preventive measures, including instruction of his/her staff on the reporting of child abuse and neglect, could very well bring the principal within the perimeter of potential liability.⁴⁵ Research shows that educators are reluctant to report cases for various reasons.⁴⁶ A new nationwide emphasis on the eradication of child abuse could bring about

⁴³Ralph Mawdsley and Steven Permuth, "Child Abuse Reporting: A Search for an Acceptable Balancing of Interest," 9 Nolpe School Law Journal, (1981), p. 111.

⁴⁴Aaron, op. cit., p. 205.

⁴⁵National Association of Secondary School Principals, A Legal Memorandum: Child Abuse and Neglect (Reston, Va., Nov. 1980) p. 3.

⁴⁶Beezer, op. cit., p. 436.

future cases against school personnel. Mazzarella points out conscientious principals will want to do their part to prevent future abuse and protect their staff.⁴⁷ The National Association of Secondary School Principals suggest these recommendations for principals:

1. Know your state statute regarding child abuse and neglect, with particular attention to identification and reporting processes. Be sure to keep updated on your current state laws. Many are undergoing frequent change.
2. Have an in-service presentation(s) on child abuse and neglect prevention in which identification, reporting, and all other issues are discussed. Seek external agency personnel and law officers in your state to provide the basis of the program and potential follow-up.
3. Add a specific section to the faculty handbook dealing with the reporting function of your state statute and the responsibility of school personnel within the constraint of the law. Discuss the section as part of a normal faculty meeting in addition to in-service presentations, etc.
4. Be aware that some persons consider school corporal punishment as an example of child abuse. As a practical matter, avoid unnecessary physical contact with students and carefully obey the laws of your state and district concerning corporal punishment.⁴⁸

⁴⁷Jo Ann Mazzarella, "Self Defense For Principals On Staying Out of Court, Part Two," Principal, (Jan. 1983), p. 14.

⁴⁸A Legal Memorandum, op. cit., p. 7.

School systems may have future responsibilities in implementing curriculums designed to mitigate child abuse. Brandt Steele in The Battered Child indicates that parents and others who maltreat children under their care are not haphazardly discharging destructive impulses in the form of abuse and neglect. They are following understandable and predictable patterns of child-parent interaction which have been basically determined by the way they themselves were cared for in infancy.⁶⁷ Beginning with poor attachment in the infancy period, followed by months and years of unempathic care, unrealistic demands, excessive criticism, and punishment for failure, they developed poor self-esteem, poor basic trust, and fragmented identities. This deeply-bedded identification with the behavior of parents leads to repetition of patterns in their own child care behaviors.⁷⁰

Fontana in Somewhere A Child Is Crying writes the maltreated children of today will become the maltreating parents of tomorrow. He contends that violence breeds violence.⁷¹ In 1971, New York City Family Court Judge

⁶⁷Brandt Steele and Carl Pollock, "A Psychiatric Study of Parents Who Abuse Infants and Small Children" in Helfer, R.E. and Kempe, C.H. (Eds.) The Battered Child, 2nd ed., (Chicago, University of Chicago Press, 1976), p. 90.

⁷⁰Ibid.

⁷¹Vincent Fontana, Somewhere A Child Is Crying, New York, MacMillan Publishing Co., Inc. 1975, p. 110.

Nanette Dembitz, testifying before the New York State
Legislative Committee on Child Abuse and Neglect, concluded:

Maltreatment of children is a hurt to all citizens, not only because of their compassion for the young and weak but also from the standpoint of their own self-interest. "Crime in the streets" is a central concern, and the root of crime in the streets is the neglect of children . . . A child growing up in a situation of indifference to his well-being and of violence, cannot respect himself or others. It is as natural for a maltreated child to grow up to carry a knife as it is for a loved and cared-for child to carry a pen or pencil.⁷²

Helper and Kempe write the school system must take a preventive approach to the abuse problem. They suggest:

1. The school system must be convinced, pressured, or even coerced to initiate parenting and early child development courses and skill learning experiences for every elementary, junior, and senior high school student. If preschool programs (nursery school and day care) were associated in some way with the public school system, then a natural laboratory experience would be readily available for these students. This plus classroom work should be readily available for these students, thereby making a significant advance in the present, dearth of educational experiences in parenting in the public school system.
2. The same public school system must add parenting and early child development programs to its adult education program. If we can justify basket weaving, speed reading, and cabinet making in adult

⁷²Ibid., p. 111.

education, surely we can justify child rearing courses and experiences.⁷³

INFLUENCES ON EARLY LEGISLATION

The creation of the New York Society for the Prevention of Cruelty to Children (SPCC) in 1875 and its legal recognition through state legislation in the same year, were major milestones in society's efforts to remedy the plight of abused and neglected children. Since then, an expanding number of Societies for the Prevention of Cruelty to Children, local police agencies, and a developing network of public welfare agencies have shared and divided the responsibility to receive and investigate reports of known and suspected child abuse and neglect.⁷⁴

Until the early 1960's child abuse and neglect were hidden problems relegated to behind the scenes agencies. Neither the true seriousness of child maltreatment nor the urgent need to implement effective societal responses was widely recognized.⁷⁵

⁷³Ray Helfer, "Basic Issues Concerning Predictions" in Helfer, R.E. and Kempe, C.H. (eds.) Child Abuse and Neglect: The Family and the Community, (Cambridge, Ballinger Publishing Co, 1976), p. 370.

⁷⁴Douglas Besharov, "The Legal Aspects Of Reporting Known and Suspected Child Abuse and Neglect" 23 Villanova Law Review, (1977-78), p. 458.

⁷⁵Ibid., p. 459.

DeFrancis and Lucht report prior to the mid 1970's, there were no accurate national statistics on the incidence of child abuse. There were, however, several studies of significance:

Of particular significance is a 1962 study by the Children's Division of The American Humane Association. That study reviewed cases of child abuse reported in United States newspapers. The study amassed information on 662 incidents culled from newspapers in 48 states. The cases represented the grossest types of child abuse - situations which were reported to law enforcement authorities and which were deemed "newsworthy" by the local press. The severity of abuse reported may be judged from the fact that in 178 of the cases, almost one-fourth of the total, the child died from the injuries.⁷⁶

Dr. C. Henry Kempe of the University of Colorado at the Colorado General Hospital in Denver, reported the results of a nationwide survey of hospitals and law enforcement agencies in 1962 indicating the high incidence of battered children within a one year period. Up to this time, the syndrome of the "battered child" had for the most part been unsuspected and unrecognized by the medical profession. There was little or no information on the subject available in the standard pediatric textbooks. A new term was coined, namely "the battered child" syndrome.⁷⁷

⁷⁶V. DeFrancis and C. Lucht, Child Abuse Legislation in the 1970's, Rev. Ed., (Denver: The American Humane Association, 1974), p. 1.

⁷⁷Vincent Fontana, "The Maltreated Children Of Our Time," 23 Villanova Law Review, (1977-78), p. 448.

The following year, Fontana and his colleagues reported the observations of a large number of children who were seen at the New York Foundling Hospital Center for Parent and Child Development with no obvious signs of being "battered" but who had multiple, minor physical evidences of parental neglect and abuse. They suggested the term "maltreatment syndrome" be applied to describe this whole picture of child abuse, ranging from the simple - the undernourished infant categorized as a "failure to thrive" - to the battered child, oftentimes the last phase of the spectrum. They felt the diagnostic ability of the physician, coupled with the community treatment and preventive programs, could bring about the protection of the child from more serious injuries resulting from inflicted battering by parents - injuries that had become significant causes of childhood deaths.⁷⁶

As a result of Kempe and Fontana's research and writings, the problems of child abuse were given the highest priority by medical, legal and social professional groups as a major, unsolved health problem of American children in the 1960's.⁷⁷ Recognizing the need for interdisciplinary cooperation, the Children's Bureau of the Department of Health, Education, and Welfare in 1962 called a conference of

⁷⁶Vincent Fontana and Douglas Besharov, The Maltreated Child, 3rd ed., (Springfield, Thomas Publisher, 1977), pp. 6-8.

⁷⁷Ibid., p. 4.

the appropriate professional groups to promote better understanding of the problem.⁸⁰ In 1963, the United States Children's Bureau published a guide for child abuse legislation, based on the new concept of reporting child abuse to a state central register of records. In the context of the times, the 1963 Model Child Protection Act was an innovative document. Within three years, every state enacted a reporting law, many patterned after the Children's Bureau model.⁸¹

Five different models for child abuse report laws were proposed by various sponsors between 1963 and 1966. The sponsor of the models were (1) the Children's Bureau 1963, (2) The Children's Division of the American Humane Association 1963, (3) the American Medical Association 1963, (4) the Council of State Government 1965, and (5) the Committee on the Infant and Preschool Child of the American Academy of Pediatrics, 1966. All the models required physicians to report cases but the American Medical Association objected to mandatory reporting under penalty of criminal law applicable only to physicians. The AMA was concerned that abusive parents would be deterred from seeking medical care if doctors were required to report. Thus, the AMA proposed its own model - a voluntary reporting law under which a variety of types of professionals (physicians,

⁸⁰Thomas, N.C. Law Review, pp. 331-332.

⁸¹Fontana, The Maltreated Child, p. 68.

nurses, teachers, social workers) were authorized to report to either the police or a child welfare agency.⁸²

In 1972, the Committee on the Infant and Preschool Child of the American Academy of Pediatrics stated the total problem of the battered child had become huge and was not being controlled by the present management.⁸³ In 1974, President Richard Nixon signed into law federal legislation, Public Law 93-247, the Child Abuse Prevention and Treatment Act, which established the United States National Center of Child Abuse and Neglect in Washington, D.C.⁸⁴ This law reflected the evolution toward improving and expanding child protection laws. Its eligibility criteria for state grants describe the essential fundamentals of an effective child protection system. Section 4 (b) (2) of the Act provides:

In order for a State to qualify for assistance under this subsection, such State shall:

1. have in effect a State child abuse and neglect law which shall include provisions for immunity for persons reporting instances of child abuse and neglect from prosecution, under any State or local law, arising out of such reporting;
2. provide for the reporting of known and suspected instances of child abuse and neglect.

⁸²Thomas, N.C. Law Review, p. 332.

⁸³Fontana, The Maltreated Child, p. 5.

⁸⁴Ibid., p. 5.

3. provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect;

4. demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such administrative procedures, such personnel trained in child abuse and neglect prevention and treatment, such training procedures, such institutional and other facilities (public and private), and such related multidisciplinary programs and services as may be necessary or appropriate to assure that the State will deal effectively with child abuse and neglect cases in the State;

5. provide for methods to preserve the confidentiality of all records in order to protect the rights of the child, his parents or guardians;

6. provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

7. provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceeding;

8. provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to assure that Federal funds made available under this Act for any

fiscal year will be used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

9. provide for dissemination of information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect; and

10. to the extent feasible, insure that parental organizations combating child abuse and neglect receive preferential treatment.⁸⁵

Fontana states no law is the ultimate answer to eradicate child abuse and neglect. He feels the causes are too complex, some stem from psychological problems, others have deep roots in our society. A law cannot rehabilitate parents. He feels a renewed sense of respect for the human growth of all individuals within the context of the family will do more to lower violence and aggression against the young than any number of social agencies which usually become involved only after the process of a family breakdown has progressed almost past the point of irremediable damage. Ultimately, the prevention and treatment of child abuse and child neglect depend less on laws and more on healthy family and community life.⁸⁶

⁸⁵Ibid., pp. 68-70.

⁸⁶Fontana, Villanova Law Review, p. 520.

PROTECTIVE SERVICES APPROACHES

Research in the law of child abuse illuminates the difficulties that are inevitable with any attempt to legislate a change in the human condition.⁶⁷ The first generation of writers evidenced in the Cruelty to Children statutes of the late 1800's had an emphasis on punishment.⁶⁸ The second generation of writers in the 1960's and 1970's advocated less intervention from the courts and more parental reform in the reporting acts.⁶⁹ Katz et al. state what is needed now is a third generation of writers to concentrate on the positive side. The legal literature clusters around two poles: the need to intervene, on the one hand, and on the other the failure of the law and the courts to evolve an effective and fair method for intervention. There has been a sophisticated presentation of an old problem which, because of its complexity and of the nature of the legal system, cannot easily be solved.⁷⁰

The assumption underlying protective services is that only a healthy home environment can alleviate the problems of child abuse. Therefore, following a complaint, referral or

⁶⁷Katz, et al., op. cit., p. 182.

⁶⁸M.G. Paulsen, "The Legal Framework for Child Protection," 66 Columbia Law Review, (1966), p. 679.

⁶⁹Katz, et al., op. cit., p. 152.

⁷⁰Ibid.

court order, efforts are made to improve the home situation in hope of avoiding or supplementing legal action. Protective services remain inadequately funded and understaffed. An equally serious criticism is that during the period protective services are offered the child is in the home. This situation has resulted on occasions in serious injury or death to the child during this period.⁷¹

Rosemary Zimmerman, director of the Protective Service Division in Cumberland County confirmed that the number and severity of abuse have increased. Therapy for sexual and physical abuse, aimed at keeping the family together involves the child, the school, the perpetrator and the spouse.⁷² The hardship is more cases but insufficient money in the budget to hire an adequate number of staff members. Seminars such as "A Community Responsibility - What is Legitimate Suspicion?" could be held more often and involve the school system, legal staff, and community to a greater extent if funds were available.⁷³

Michael Wald contends that the state's standards for intervention need a new approach if children's rights are to

⁷¹Lois Hochhauser, "Child Abuse and the Law: A Mandate for Change," 18 Howard Law Review, (1973), pp. 207-208.

⁷²Zimmerman, Interview.

⁷³"Child Abuse, A Community Responsibility - What is Legitimate Suspicion?", Cumberland County Education Resource Center, (April 19, 1985).

be protected. The standards he advocates are relatively specific and designed to minimize state intervention:

Basically, intervention is permitted only in cases where a child evidences serious physical or emotional damage. The guidelines are not designed to insure that every child receives adequate housing, medical care, education, or a supportive home environment. Clearly, many children need more than they now have. However, their needs should not be met through neglect proceedings, which even under the best of circumstances will be perceived as punitive, rather than helpful, by parents. Instead, the state should establish general programs to help all families provide adequately for their children and should intervene coercively only if the standards proposed herein are not."⁴

Richard Light states despite this recent growth of concern, suprisingly little is yet known about many aspects of child abuse. Although a number of casual theories have been put forth to explain the occurrences of abuse, substantial guesswork is still involved. Perhaps most serious is the lack of firm evidence about what forms of service programs are most effective in dealing with families who maltreat children. Carefully designed field studies to examine different policies are yet to be undertaken. The limited available data, however, can provide useful preliminary insights about several policy suggestions."⁵

⁴Michael Wald, "State Intervention on Behalf of 'Neglected' Children: A Search for Realistic Standards," 27 Stanford Law Review, (April 1975), p. 1037.

⁵Richard Light, "Abused and Neglected Children in America: A Study of Alternative Policies," Harvard Education Review, 43, (1973), p. 560.

Thomas contends one might also raise a number of questions about the effectiveness of the reporting law's implementation. The law seems to assume that reports will be made, that the protective services approach will be effective, and that there are staff available at the county level who are qualified to provide services and who are available when needed to evaluate reports of child abuse and neglect. But it is not clear that the protective services approach is effective in all cases, nor is it clear which professionals are qualified to provide protective services or whether adequate personnel are available when needed in all counties. The need for stable funding to support services and personnel is clear.⁷⁶

Aaron states the teacher can serve as a link between the child, his family, and those services that an individual school district can provide. Outside support services are readily available to public school students and their families. School districts frequently have qualified nurses, social workers, psychologists, and other specialist personnel on staff, and they are familiar with the outside agencies who deal most effectively with child related problems. Referral procedures are frequently well established in a school system. Such a system could help to insure ongoing,

⁷⁶Mason Thomas, "Child Abuse and Neglect Part II: Historical Overview, Legal Matrix and Social Perspectives On North Carolina," 54 N.C. Law Review, (June 1976), p. 774.

comprehensive treatment of abuse victims. As long as a child remains in the same school district, monitoring and intervention can be easily accomplished."⁷⁷

The core objective of any child abuse or neglect program is early identification of children who have been physically abused, so they can be treated and protected. Local Protection Agencies are especially qualified to "reach out" to families where children are neglected or abused. Their functional responsibility requires that they:

1. explore and determine the facts of neglect or abuse,
2. assess and evaluate the damage to children,
3. initiate appropriate social work services to remedy the situation, and,
4. invoke the authority of the juvenile court in those situations where removal from parental custody must be sought in the best interests of children."⁷⁸

This philosophy is stretched to include the parents and is based on the recognition that destructive parental behavior is symptomatic of deeper emotional problems. Rarely is child abuse the product of wanton, willful or deliberate acts of cruelty. It results from emotional immaturity and from lack of capacity for coping with the pressures and tensions of modern living."⁷⁹

⁷⁷Aaron, op. cit., p. 211.

⁷⁸DeFrancis and Lucht, op. cit., p. 5.

⁷⁹Thomas, N.C. Law Review (1972), p. 329.

Thomas contends the following important principle seems to be agreed upon: The study, understanding, and development of programs to deal effectively with child abuse and neglect are beyond the professional competence of any one of the related professional disciplines—law, medicine, education, social work, psychiatry, and psychology, and further beyond the capacity of any single community resource—law enforcement, school systems, welfare programs, courts, hospitals, and private family agencies. Thus effective programs will require interdisciplinary efforts and coordination of community resources. Such cooperation and coordination have always been difficult to achieve.¹⁰⁰

THE CENTRAL REGISTRY

In 1966 only four states (California, Illinois, Virginia, and Maryland)¹⁰¹ had Central Registers, but today all states have a reporting system. The American Association for Protecting Children located in Denver, Colorado, formerly called the American Humane Association, keeps up-to-date national statistics. Kathern Bond, editor of the magazine Protecting Children says the association no longer deals with state legislation but is primarily a national data gathering operation. The association trains social workers in the

¹⁰⁰Ibid., p. 6.

¹⁰¹Sussman, op. cit., p. 300.

United States and Canada and can be called in for consultation services. Bond says with the statistics, research in the area of child abuse and neglect is conducted by the association.¹⁰²

The arguments in favor of a register are basically three: (1) a single state-wide recording center facilitates the cumulation of reports of abuse by parents who may be purposely taking their injured children to different hospitals or locales, (2) previous records of alleged or determined abuse may strengthen a reporter's suspicions about a current injury, and (3) a unified system of record keeping could provide statistics on the actual extent and seriousness of the child abuse phenomenon.¹⁰³

DeFrancis and Lucht contend that while the identification of families in which multiple abuse has occurred is extremely important, the serious constitutional questions raised by such procedures as family tracing cannot be lightly dismissed.¹⁰⁴ In the law review article "The Legal Aspects of Reporting Known and Suspected Child Abuse and Neglect", Besharov summarizes a properly operated central register can:

- 1) assist in diagnosis and evaluation by providing or locating information on

¹⁰²Kathern Bond, Interview.

¹⁰³Sussman, op. cit., p. 301.

¹⁰⁴DeFrancis and Lucht, op. cit., p.179.

suspicious occurrences and prior treatment efforts;

2) improve the handling of child abuse and neglect cases by providing convenient consultation on case handling to workers and potential reporters;

3) refine diagnosis and encourage further reporting by providing feedback to those who have made reports;

4) measure the performance of the child protective service by monitoring follow-up reports;

5) coordinate community-wide treatment efforts by monitoring follow-up reports;

6) facilitate research, planning, and program development by providing statistical data on the nature and handling of reports; and

7) encourage the reporting of suspected child abuse and neglect by providing a focus for public and professional educational campaigns.¹⁰⁵

Besharov believes there is a need to develop a reasonable and predictable method for determining whether reports should be removed from the register which would be fair to both the endangered children as well as to accused parents.¹⁰⁶

There is also a need for cooperative teamwork regarding records. Direct access to the records for all other professionals coming in contact with abused and neglected children is not necessary. Protective workers can share relevant information with other appropriate agencies and

¹⁰⁵Besharov, op. cit., p. 503.

¹⁰⁶Ibid., p. 506

professionals as a cooperative treatment plan is being developed. Professionals who know and trust each other should be able to discuss a case in their professional capacities. Treatment agencies, such as foster care agencies, need a clear picture of family history in order to develop and implement successful treatment strategies. For this reason, many states specifically authorize their access to the information in their records.¹⁰⁷ One of the key concerns of educators reporting a suspected case of child abuse relates to whether a report to a given social service or law enforcement agency violates the concept of confidentiality of school records. In general, the answer appears to be that there is little, if any, risk of violation.¹⁰⁸

The first exception to the Federal Family Educational Rights and Privacy Act (FERPA)¹⁰⁹ is as follows:

An educational agency or institution may disclose personally identifiable information from the education records of a student to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals.¹¹⁰

¹⁰⁷Ibid., p. 510.

¹⁰⁸A Legal Memorandum, p. 4.

¹⁰⁹20 U.S.C. 1232 (1976).

¹¹⁰45 CFR subtitle A, 599.36 (a).

As a rule, access to the school records by persons other than the parents or the student is limited and generally requires prior consent by the parents or the student.¹¹¹ Dellinger suggests that the educator keep the briefest record possible. Such a record would not include the name of the reporter but merely note that a report was made to the director of social services on a particular date concerning a named child. Information on the eventual disposition of the complaint should be noted.¹¹² Arguments against providing access to reports are that confidentiality may enhance the frankness of reports, future remedial attempts may be hindered if parents view reports, and parents may retaliate with a lawsuit against informants.¹¹³

¹¹¹Policy Manual, Fayetteville, Cumberland County Board of Education, (Nov. 1980), p. JR 929.

¹¹²Anne Dellinger, North Carolina School Law: The Principal Role, Chapel Hill, N.C. Institute of Government, (1981), pp. 12-13.

¹¹³Howard Davidson, Robert Harowitz, Thomas Marvell and Orm Ketcham, Child Abuse and Neglect Litigations: A Manual for Judges, National Center on Child Abuse and Neglect DHHS Publication No. 80-30268, (Mar. 1981) p. 125.

SUMMARY

Identification of abuse victims is an essential step in facilitating the protection of children in abusive home situations and in curtailing abusive treatment generally. Efficient, accurate reporting is a fundamental component of any effective solution to the child abuse problem. Teachers should occupy a particularly significant position in reporting schemes, because of the opportunity to observe and monitor students in a continuing, consistent manner. The most advantageous technique is to make contact with the abusive parents as soon as possible, before the child has been seriously abused, and before criminal charges are filed. The mandatory reporting of suspected abuse statutes provides an excellent vehicle for accomplishing this. Child abuse legislation, especially the reporting statutes, has a remarkable history. Perhaps, no other type of legislation has so quickly gained acceptance, has been so widely proclaimed as a panacea, and has been so often amended and rewritten in such a short period of time.

A number of trends have emerged contributing to increased reporting. First is the change in reporting legislation to include non-medical professionals in the target group of those mandated to report. Whereas, earlier legislative enactments required medical practitioners only to report, now a growing number of states seek reports from nurses, teachers and social workers and from any other person

with knowledge of child abuse. The second major trend is the decisive move away from a crime-and-punishment approach and the substitution of a helping philosophy designed to protect the abused child and to help make parents more responsible. This changing climate, in terms of how the problem is treated, has served to encourage more people to seek help and treatment for both the abused and the abuser.

The first step for any school system concerning child abuse and child neglect should be the development of an effective child protection policy. The policy should be designed to fit the system's particular needs and must accurately reflect state and local child protection procedures and laws. Review and adoption by the local school board will insure that the policy is binding on school staff and that it has community support.

Reporting is the beginning, not the end of the child protective process. Historically the educator's role stopped with reporting, but that has changed. Schools and educators now provide assistance and support to the local Child Protective Service by sharing important information about the children and their families. Schools now provide services of a social worker and psychologist participating on a multidisciplinary team with teacher and principal. Schools can also become actively involved in educational programs in the community to reduce the incidence of child maltreatment. The school can serve as a focal point for services to the children and their families.

CHAPTER III

LEGISLATIVE PROVISIONS FOR CHILD ABUSE AND NEGLECT

OVERVIEW

The primary objective of reporting laws is early identification of children who need protection from abuse and neglect. Identification of these children will provide treatment for the present injuries and hopefully protect the child from further abuse.

In the early 1960's, Drs. Henry Kempe, Ray Helfer, Vincent Fontana and their colleagues defined the battered child syndrome as a clinical condition in young children who have received serious physical abuse, usually from a parent, stepparent, or foster parent. By 1967 all state legislatures passed statutes mandating the identification and reporting of suspected child abuse and neglect cases. This initial definition has been broadened by enlarging the scope of both reporters and the reported. In the 1970's legislation requiring a wider range of people to report suspicion of child abuse and neglect and legal definitions which expand the types of conditions which may constitute abuse was passed. Most recent legislation endorses a non-punitive reporting system, whereby abusing parents are helped rather than threatened or punished as a consequence of being

reported. This approach encourages a non-judicial resolution of the problem of child abuse and relies less on the juvenile and criminal courts. The passage of the Federal Child Abuse Prevention and Treatment Act in 1974, (Public Law 93-247) further strengthened the states' efforts in developing prevention and treatment program.

Research, public concern and media attention all contribute to the pressure applied on legislatures in all fifty states. No other type of legislation has gained such wide acceptance at such a quick pace. The tempo has continued into 1985 with the majority of states amending child abuse and neglect laws. Thirteen key areas in the states' statutes are researched and recorded in Appendix A. Tables I - IX permit a quick analysis of each state's position in thirteen key areas. These thirteen key areas are of primary concern to an educator. To understand the laws taken from the governing statutes of the fifty states, these thirteen areas are defined below:

STATE
Statutory Completion

Purpose	Applicable section and date.
Clause	Text of purpose clause or statement of legislative intent.
Reportable Conditions	Applicable section and date. Statutory language used to define conditions, suspicions, or beliefs which must be reported.

Definition of Abuse	Applicable section and date. Definition of "abuse" used in conjunction with mandatory reporting law.
Definition of Child	Applicable section and date. Definition of "child" used in conjunction with mandatory reporting law.
Nature of Report	Applicable section and date. "Mandatory"= persons listed must report. "Voluntary"= persons listed may report. "Accusatory"= person reporting must identify perpetrator of the abuse within contents of report. "Nonaccusatory"= person reporting may identify perpetrator of the abuse, or statute does not specify required contents of report.
Who Reports	Applicable section and date. List of persons who must/may report.
Reporting Procedure	Applicable section date. Summary of reporting procedures.
Report to Whom	Applicable section and date. Agency receiving reports.
Mandated Actions	Applicable section and date. Summary of statutory language outlining actions the receiving agency must complete after receipt of a report.
Immunity	Applicable section and date. Statutory language concerning immunity from liability for making required reports.
Waiver of Privilege	Applicable section and date. Statutory language concerning applicability and waiver of privilege.
Central Registry	Applicable section and date. Statutory language establishing a central registry of reports.
Penalty	Applicable section and date. Penalty for failure to make required reports.

Table I indicates state policy in regard to the purpose of the legislature regarding child abuse and neglect. An analysis of the states' statutes shows 41 states have incorporated a purpose clause in their state statutes or 82 percent of the state statutes contain purpose clauses. All 50 states include a provision for reportable conditions.

TABLE I

PURPOSE CLAUSE
OR
STATEMENT OF LEGISLATIVE INTENT

Alabama	X
Alaska	X
Arizona	
Arkansas	
California	X
Colorado	X
Connecticut	X
Delaware	X
Florida	X
Georgia	X
Hawaii	
Idaho	X
Illinois	X
Indiana	X
Iowa	X
Kansas	X
Kentucky	X
Louisiana	X
Maine	X
Maryland	X
Massachusetts	X
Michigan	X
Minnesota	X
Mississippi	
Missouri	
Montana	X
Nebraska	
Nevada	X
New Hampshire	X
New Jersey	X
New Mexico	X

TABLE I (continued)

PURPOSE CLAUSE
OR
STATEMENT OF LEGISLATIVE INTENT

!New York	X
!North Carolina	X
!North Dakota	X
!Ohio	
!Oklahoma	X
!Oregon	X
!Pennsylvania	X
!Rhode Island	X
!South Carolina	X
!South Dakota	
!Tennessee	X
!Texas	
!Utah	X
!Vermont	X
!Virginia	X
!Washington	X
!West Virginia	X
!Wisconsin	X
!Wyoming	X

Table II indicates state policy in regard to the definition of abuse. This definition expands the reportable conditions required in the specific laws. All states except Texas have a child abuse definition. Statutes differ in being explicit. Colorado, Pennsylvania and Idaho are more detail in their definition while most states use broad terminology such as North Carolina:

Inflicting physical injury other than by accidental means which causes substantial risk of death, disfigurement, or impairment of physical health, committing a sexual act upon a juvenile in violation of law, committing or encouraging any act of prostitution with or by the juvenile, or directs or encourages delinquent acts involving moral turpitude committed by the juvenile.¹

¹N.C. Gen. Stat. 7A-517 (1) (a) - (a) (1981).

TABLE II

DEFINITION OF ABUSE

Alabama	X
Alaska	X
Arizona	X
Arkansas	X
California	X
Colorado	X
Connecticut	X
Delaware	X
Florida	X
Georgia	X
Hawaii	X
Idaho	X
Illinois	X
Indiana	X
Iowa	X
Kansas	X
Kentucky	X
Louisiana	X
Maine	X
Maryland	X
Massachusetts	X
Michigan	X
Minnesota	X
Mississippi	X
Missouri	X
Montana	X
Nebraska	X
Nevada	X
New Hampshire	X
New Jersey	X
New Mexico	X
New York	X
North Carolina	X
North Dakota	X
Ohio	X
Oklahoma	X
Oregon	X
Pennsylvania	X
Rhode Island	X
South Carolina	X
South Dakota	X
Tennessee	X
Texas	X
Utah	X
Vermont	X
Virginia	X
Washington	X
West Virginia	X
Wisconsin	X
Wyoming	X

Table III indicates the age limits for reportable children. All states except Wyoming define the upper age limits at 18. Seven states, Indiana, Mississippi, Nebraska, Ohio, Oregon, Texas and Wyoming have stated extended coverage or special clauses such as Texas:

A person under the age of eighteen who is and has not been married or who has not had his disabilities of minority removed.²

TABLE III

AGE LIMITS FOR REPORTABLE CHILDREN

	Age 16	Age 18	Other Clauses
Alabama		X	
Alaska		X	
Arizona		X	
Arkansas		X	
California		X	
Colorado		X	
Connecticut		X	
Delaware		X	
Florida		X	
Georgia		X	
Hawaii		X	
Idaho		X	
Illinois		X	
Indiana		X	X
Iowa		X	
Kansas		X	
Kentucky		X	
Louisiana		X	
Maine		X	
Maryland		X	
Massachusetts		X	
Michigan		X	
Minnesota		X	
Mississippi		X	X
Missouri		X	

²Texas Codes. 11.01 (1) (1975).

TABLE III (continued)

	Age 16	Age 18	Other Clauses
Montana		X	
Nebraska			X
Nevada		X	
New Hampshire		X	
New Jersey		X	
New Mexico		X	
New York		X	
North Carolina		X	
North Dakota		X	
Ohio		X	X
Oklahoma		X	
Oregon		X	X
Pennsylvania		X	
Rhode Island		X	
South Carolina		X	
South Dakota		X	
Tennessee		X	
Texas			X
Utah		X	
Vermont		X	
Virginia		X	
Washington		X	
West Virginia		X	
Wisconsin		X	
Wyoming	X		X

Table IV indicates the mandatory duty one must perform when suspected child abuse occurs. Thirteen states contain a clause which requires the reporter to name the perpetrator, thus placing the reporter in an accusatory role. It stands to reason there is far less stress on the reporter when there is no accusatory clause. Only 26 per cent of the states have an accusatory clause.

TABLE IV

NATURE OF THE REPORT

	Mandatory	Voluntary	Accusatory	Nonaccusatory
Alabama	X	X	X	
Alaska	X	X		X
Arizona	X			X
Arkansas	X		X	
California	X	X		X
Colorado	X	X	X	
Connecticut	X			X
Delaware	X			X
Florida	X			X
Georgia	X			X
Hawaii	X	X		X
Idaho	X			X
Illinois	X	X		X
Indiana	X			X
Iowa	X	X		X
Kansas	X	X		X
Kentucky	X		X	
Louisiana	X	X		X
Maine	X	X		X
Maryland	X	X		X
Massachusetts	X	X		X
Michigan	X	X		X
Minnesota	X	X	X	
Mississippi	X			X
Missouri	X	X	X	
Montana	X	X		X
Nebraska	X		X	
Nevada	X	X		X
New Hampshire	X		X	
New Jersey	X			X
New Mexico	X			X
New York	X	X	X	
North Carolina	X			X
North Dakota	X	X		X
Ohio	X	X		X
Oklahoma	X		X	
Oregon	X		X	
Pennsylvania	X	X	X	
Rhode Island	X			X
South Carolina	X	X		X
South Dakota	X	X		X
Tennessee	X		X	
Texas	X			X
Utah	X			X
Vermont	X	X		X
Virginia	X	X		X
Washington	X	X		X
West Virginia	X	X		X
Wisconsin	X	X		X
Wyoming	X			X

Table V indicates the designated professional groups that are required to report child abuse and neglect. All the states require physicians to report; many states name specific specialists such as surgeons, dentists, interns, etc. Thirty-five state statutes or seventy percent designate teachers to report. Thirty-seven states or seventy-four percent designate school principals or other school personnel. Another large target group is the child caring institutions to report. Eight states, Indiana, North Carolina, Oregon, Rhode Island, Tennessee, Texas, Utah, and Wyoming do not follow the same pattern of naming specific professional groups. These eight states impose an obligation on any individual or any person who has reason to believe or knowledge of or cause to believe that a child is a victim of child abuse. The least named professionals are the attorneys with only two states, Mississippi and Nevada, designating their reporting. An interesting group is the religious healer with five states, Montana, Ohio, South Carolina, South Dakota and West Virginia, designating a statutory duty to report.

An analysis of the states' statutes shows an increase in the specific target groups required to report. All states except Georgia and Michigan have a statutory requirement for reports by "any other person." Colorado has a clear example of who reports.

Physician or surgeon, child health associate, medical examiner or coroner, dentist, osteopath, optometrist, chiropractor, chiropodist or podiatrist, registered nurse or licensed practical nurse, hospital personnel engaged in the admission, care, or treatment of patients, Christian Science practitioner, school official or employee, social worker or worker in a family care home or child care center, and mental health professionals.
 "...any other person may report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in child abuse or neglect..."³

TABLE V

WHO REPORTS

	Physician	Dentist	Hospital/Institution	Chiropractor	Teachers	School Personnel	Social Workers	Law Enforcement	Medical Examiner/Coroner	Religious Healers	Child Care Institutions	Any Other Person
Alabama	X	X	X	X	X	X	X	X	X			X
Alaska	X		X		X	X	X	X			X	X
Arizona	X	X	X	X	X	X	X	X	X		X	X
Arkansas	X	X	X		X	X	X	X	X		X	X
California	X	X	X	X	X	X					X	X
Colorado	X	X	X	X		X	X		X		X	X
Connecticut	X	X		X	X	X	X	X	X			X
Delaware	X	X				X	X		X			X
Florida	X		X	X	X	X	X	X	X		X	X
Georgia	X	X	X		X	X	X				X	
Hawaii	X	X	X		X	X	X	X	X		X	X
Idaho	X				X		X		X		X	X
Illinois	X	X	X	X	X	X	X	X	X		X	X
Indiana												X
Iowa	X		X		X	X	X				X	X
Kansas	X	X	X	X	X	X	X	X			X	X
Kentucky	X	X		X	X	X	X		X		X	X

³Colorado Revised Statutes Annotated. 19-10-104 (1978).

Table VI indicates the reporting procedures required in the states' statutes. Thirty-two states require an oral and written report. Only four states have statutory requirements that reports can be oral or written and eight states have an oral only requirement. Seven states have special clauses such as North Carolina:

Orally, by telephone, or in writing. If given orally by telephone, the person giving the report must give his name, address, and telephone number. Refusal to give a name does not preclude the Department's investigation of the alleged abuse or neglect.⁴

TABLE VI

REPORTING PROCEDURES

	Oral and Written	Oral Only	Oral, Written May Be Requested	Special Clauses
Alabama	X			
Alaska				X
Arizona	X			
Arkansas	X			
California	X			
Colorado	X			
Connecticut	X			
Delaware			X	
Florida	X			
Georgia	X			
Hawaii	X			
Idaho				X
Illinois	X			
Indiana		X		
Iowa	X			
Kansas			X	
Kentucky			X	

⁴N.C. Gen. Stat. 7A-543 (1981).

TABLE VI (continued)

	Oral and Written	Oral Only	Oral, Written May Be Requested	Special Clauses
Louisiana	X			
Maine			X	
Maryland	X			
Massachusetts	X			
Michigan	X			
Minnesota	X			
Mississippi	X			
Missouri	X	X		
Montana				X
Nebraska	X			
Nevada	X			
New Hampshire	X			
New Jersey		X		
New Mexico	X			
New York	X			X
North Carolina				X
North Dakota				
Ohio	X			
Oklahoma	X			
Oregon		X		
Pennsylvania	X			
Rhode Island	X			X
South Carolina		X		
South Dakota		X		
Tennessee		X		
Texas	X			
Utah			X	
Vermont	X			
Virginia				
Washington			X	X
West Virginia			X	
Wisconsin		X		
Wyoming	X			

Table VII indicates to whom a report is made.

Thirty-nine states or seventy-eight percent require reporting to the County Department of Social Services. Fifteen states or thirty percent require a report to both the county department or State Department of Social Services.

Twenty-eight states' statutes specify a report may be made to

some law enforcement agency. The mandated action in the statute requires the receiving agency to act upon a report in a certain amount of time. Only one state, Georgia, has no specific mandated action. The mandated action may require other procedures be followed such as stated in the New York statute:

Each child protective service shall receive reports of suspected child abuse or maltreatment, maintain and keep an up-to-date register of all cases reported, immediately upon receipt of a written report transmit the report to the state central register and not later than seven days after receipt of the report send a preliminary written report of the initial investigation to the state central register, begin to investigate within twenty four hours of receipt of a report, determine whether the report is "indicated" or "unfounded," and provide protective services for the child if necessary.²

TABLE VII

REPORT TO WHOM

	County Dept. of Social Services	State Dept. of Social Services	Law Forces	Mandated Actions
Alabama	X		X	X
Alaska		X	X	X
Arizona		X	X	X
Arkansas	X	X		X
California	X		X	X
Colorado	X		X	X
Connecticut		X	X	X
Delaware	X			X

²McKinney's Consolidated Laws of New York Annotated, 424 (1983).

TABLE VII (continued)

	REPORT TO WHOM			
	County Dept. of Social Services	State Dept. of Social Services	Law Forces	Mandated Actions
Florida		X		
Georgia	X		X	
Hawaii	X		X	X
Idaho		X	X	X
Illinois	X			X
Indiana	X			X
Iowa	X			X
Kansas		X	X	X
Kentucky	X			X
Louisiana	X		X	X
Maine		X		X
Maryland	X		X	X
Massachusetts	X		X	X
Michigan		X		X
Minnesota	X		X	X
Mississippi	X			X
Missouri	X			X
Montana	X	X		X
Nebraska	X		X	X
Nevada	X		X	X
New Hampshire		X		X
New Jersey		X		X
New Mexico	X		X	X
New York	X	X		X
North Carolina	X			X
North Dakota	X			X
Ohio	X	X	X	X
Oklahoma	X			X
Oregon	X		X	X
Pennsylvania	X			X
Rhode Island	X			X
South Carolina	X		X	X
South Dakota	X		X	X
Tennessee	X		X	X
Texas	X		X	X
Utah	X		X	X
Vermont		X		X
Virginia	X		X	X
Washington	X		X	X
West Virginia	X			X
Wisconsin	X		X	X
Wyoming	X		X	X

Table VIII indicates three basic elements in each state's reporting laws, the immunity clause, the penalty

clause and the establishment of a central registry. All 50 states have incorporated an immunity clause which protects the reporter from criminal or civil action. Forty-five states or ninety percent of the states have a penalty clause in their statutes. Five states, Illinois, Maryland, Mississippi, North Carolina and Wyoming do not have penalty clauses. Forty-one states or eighty-two percent require the establishment of a central registry. As reviewed in Chapter II, central registers are important for collecting data and identifying repeated abuse. Nine states, Georgia, Indiana, Kansas, Kentucky, Maine, Minnesota, New Mexico, North Dakota, West Virginia and Wisconsin do not require a central registry.

TABLE VIII

IMMUNITY, PENALTY CLAUSE AND CENTRAL REGISTRY

	Immunity	Penalty Clause	Central Registry
Alabama	X	X	X
Alaska	X	X	X
Arizona	X	X	X
Arkansas	X	X	X
California	X	X	X
Colorado	X	X	X
Connecticut	X	X	X
Delaware	X	X	X
Florida	X	X	X
Georgia	X	X	
Hawaii	X	X	X
Idaho	X	X	X
Illinois	X		X
Indiana	X	X	
Iowa	X	X	X
Kansas	X	X	
Kentucky	X	X	

TABLE VIII (continued)

IMMUNITY, PENALTY CLAUSE AND CENTRAL REGISTRY

	Immunity	Penalty Clause	Central Registry
Louisiana	X	X	X
Maine	X	X	
Maryland	X		X
Massachusetts	X	X	X
Michigan	X	X	X
Minnesota	X	X	
Mississippi	X		X
Missouri	X	X	X
Montana	X	X	X
Nebraska	X	X	X
Nevada	X	X	X
New Hampshire	X	X	X
New Jersey	X	X	X
New Mexico	X	X	
New York	X	X	X
North Carolina	X		X
North Dakota	X	X	
Ohio	X	X	X
Oklahoma	X	X	X
Oregon	X	X	X
Pennsylvania	X	X	X
Rhode Island	X	X	X
South Carolina	X	X	X
South Dakota	X	X	X
Tennessee	X	X	X
Texas	X	X	X
Utah	X	X	X
Vermont	X	X	X
Virginia	X	X	X
Washington	X	X	X
West Virginia	X	X	
Wisconsin	X	X	
Wyoming	X		X

Table IX indicates the various relationships that come under the waiver privilege. Thirty-eight states or seventy-six percent provide a waiver for the physician, thus releasing this professional group to divulge confidential information in child abuse cases. There is a waiver of privilege between a husband and wife in 26 states or 42 per

cent. Quite often the only witnesses of child abuse at home are the spouses themselves. Twenty states or 40 percent of the state statutes specify the waiver of all privileges of confidence except attorney-client status. Only two states, New Jersey and Vermont list no waiver of privilege.

TABLE IX

WAIVERS OF PRIVILEGE

	Doctor/ Patient	Husband/ Wife	All Other Privileges (Except) Attorney/ Client
Alabama			X
Alaska	X	X	
Arizona			X
Arkansas			X
California	X		
Colorado	X	X	
Connecticut		X	
Delaware	X	X	X
Florida	X	X	X
Georgia		X	
Hawaii	X	X	
Idaho	X	X	X
Illinois	X		X
Indiana	X	X	
Iowa	X	X	
Kansas	X		
Kentucky	X	X	X
Louisiana	X	X	X
Maine	X	X	
Maryland	X		
Massachusetts	X		
Michigan			X
Minnesota	X		
Mississippi	X		
Missouri			X
Montana			X
Nebraska	X	X	

TABLE IX (continued)

WAIVERS OF PRIVILEGE

	Doctor/ Patient	Husband/ Wife	All Other Privileges (Except) Attorney/ Client
Nevada	X	X	
New Hampshire	X	X	X
New Jersey			
New Mexico	X		
New York	X	X	
North Carolina	X	X	
North Dakota	X	X	X
Ohio	X		
Oklahoma	X		
Oregon			X
Pennsylvania	X		
Rhode Island	X	X	X
South Carolina	X	X	X
South Dakota	X	X	
Tennessee	X	X	
Texas			X
Utah	X		
Vermont			
Virginia	X	X	
Washington	X		
West Virginia	X	X	X
Wisconsin	X	X	
Wyoming	X	X	X

SUMMARY

These nine tables permit a quick analysis of each states' legislative enactment in the area of child abuse and neglect. While the applicable laws vary from state to state, these tables reveal the following relative to the various state child abuse and neglect statutes:

- I. All 50 states include a statutory provision for reportable conditions;
- II. All states except Texas have a child abuse definition;
- III. All states except Wyoming define the upper age limit for reportable children at age 18;

- IV. Thirteen states require the reporter to name the alleged perpetrator;
- V. All states except Georgia and Michigan require reports by "any other person"; all require reports by teachers and school personnel;
- VI. Thirty-two states require the report to be oral and written;
- VII. All states specify to whom the report is to be made; every state except Georgia further mandates some action by the agency to whom the report is made;
- VIII. All states have incorporated an immunity clause which protects the reporter; forty-five states have a penalty clause for failure to report; forty-one states require the establishment of a central registry;
- IX. Most states have some provision for the waiver of certain specified privileged or confidential information by the reporter; while no statutes specifically mention educators, waivers are granted to educators under the statutes of twenty states under the general provision waiving all other privileges (except that between attorney-client).

Child abuse reporting laws have been enacted and frequently amended to facilitate effective operation.¹ They are relevant to a compelling, contemporary social problem and have not become obsolete with changes in our society.² Additionally, the statutes protect individual rather than state interests; and, although a collateral purpose in enacting the reporting laws may have been to facilitate administrative efficiency, the primary motivation for their enactment was the protection of children who were subjected to physical abuse.³

¹B.G. Fraser, "A Glance at th Past, A Gaze at the Present, A Glimpse at the Future: A Critical Analysis of the Chicago-Kent Law Review (1978), p. 656.

²Ibid.

³Ibid.

Aaron states there is very little value in fine tuning the identification and the investigatory processes unless individuals are aware of what the law requires and how the system works.⁴ It is rather easy to amend the reporting statute to broaden the base of mandated reporters, facilitate the reporting process, provide immunity for good faith reports and liability for no reports. But unless the mandated reporters know that there is an obligation to report, know what child abuse is, know how to identify it and how to report it, there is little chance that the number of reports will increase or become more accurate.⁵

The problems which surround the issue of intervention are the most complex to resolve. As a result, little is attempted and little is accomplished.⁶ What states have attempted to do falls into three categories: (1) Making the case easier to prove. (2) Ensuring that the child's interests are fully protected. (3) Getting better mileage out of what is available.⁷

Educators in the intervention role must be cognizant of the legal implications and legislative enactments of their state.

⁴Jody Aaron, "Civil Liability For Teacher's Negligent Failure To Report Suspected Child Abuse", Wayne Law Review 28 (1), (Fall 1981), p. 199.

⁵Fraser, op. cit., p. 677

⁶Ibid., p.678.

⁷Ibid., p. 678-679.

CHAPTER IV

SELECTED JUDICIAL DECISIONS RELATING TO CHILD ABUSE AND NEGLECT

OVERVIEW

The main purposes of all state child abuse reporting laws are to (1) identify children who are being maltreated as a result of neglect and abuse; (2) to intervene on the children's behalf; and (3) to provide protective services to children and their families.¹ Judicial decisions have evolved to interpret the statutory laws, to determine their constitutionality or, where the statutes are silent, address the issues relating to child abuse and neglect.

This chapter presents a review of court decisions relating to eight selected issues. An analysis is presented of each issue which effect enforcement of child abuse laws together with leading cases bearing on the same. Specific facts, the judicial decision and a discussion of each of the reviewed cases is presented as it pertains to child abuse and neglect.

¹Janet Mason, Abuse and Neglect of Children and Disabled Adults: North Carolina's Mandatory Reporting Laws. Institute of Government, The University of North Carolina at Chapel Hill, 1984, p. 2.

WHAT IS THE ROLE OF THE STATE RELATIVE TO CHILDREN?

Under parens patriae authority the state assumes the role of the substitute parent of minor children. The landmark child protective court decision of this century² was handed down in Prince v. Massachusetts.³ Justice Rutledge stated that:

[T]he family itself is not beyond regulation in the public interest....Acting to guard the general interest in youth's well-being, the state as parens patriae may restrict the parent's control....the state has a wide range of power for limiting parental freedom and authority in things affecting the child's welfare;....⁴

Prince v. Massachusetts
321 U.S. 158 (1944)

Facts

A state child labor law prohibited minors from selling literature on the streets or in any public place. A guardian furnished her minor charge with religious literature and permitted the minor to distribute the literature on the streets. She had been warned against doing so by the school attendance officer. The guardian was convicted pursuant to the state labor law and appealed on the grounds that the acts were a rightful exercise of her religious convictions under

²Davidson, op. cit., p. 2.

³Prince v. Massachusetts, 321 U.S. 158 (1944), p. 159-164.

⁴Ibid., p. 166.

the First and Fourteenth Amendments of the United States Constitution.³

Decision

The State may exercise its police power to enact legislation in the form of child labor laws which control the conduct of children to protect the public welfare. This exercise does not invade religious freedom in public places as guaranteed by the First and Fourteenth Amendments.

Discussion

The rights of children to exercise their religion, and of parents to provide them with religious training have been recognized as legitimate private interests (See West Virginia State Board of Education v. Barnette, 319 U.S. 624; Pierce v. Society of Sisters, 268 U.S. 510; Meyer v. Nebraska, 262 U.S. 390.). However, the family itself is not beyond regulations in the public interest. Neither rights of religion nor rights of parenthood are beyond limitation. Acting to guard the general interest in children's well-being, the state as parans patriae may restrict the parent's control by requiring school attendance, and regulating or prohibiting the child's labor.⁴ The state has a wide range of power for limiting parental freedom and authority in things affecting the child's welfare and that includes matters of conscience and

³Prince v. Massachusetts, op. cit., p. 159.

⁴Ibid., p. 166. See Sturges & Burn Mfg. Co. v. Beauchamp, 231 U.S. 320 (1913).

religious conviction.⁷ Among the evils most appropriate for the exercise of state power are the crippling effects of child employment, more especially in public places and the possible harms arising from other activities subject to all the diverse influences of the street.⁸ The State's exercise of police power in the form of child labor laws did not violate the Constitutional guarantee of religious freedom in public places.

WHAT EFFECT MIGHT LEGAL RIGHTS OF PARENTS HAVE ON CHILD ABUSE LAWS?

According to Judge Clarence Horton in a recent Campbell Law Review article, there has been an explosion of children's rights legislation, but there is no unanimity of opinion among either child care professionals or laymen as to how far government should intrude into a family's relationship.⁹ Horton states the integrity of the family unit has found protection in the United States Constitution through the Due Process Clause of the Fourteenth Amendment, . . . the Equal Protection Clause of the Fourteenth Amendment . . . and the Ninth Amendment.¹⁰

⁷Ibid., p. 167.

⁸Ibid., p. 168.

⁹Clarence E. Horton, "Coersive Governmental Intervention And The Family: A Comment On North Carolina's Proposed Standard," 7 Campbell Law Review, (Fall 1984), p. 147.

¹⁰Ibid., p. 153.

The decision to take a child away from a parent is possibly the most difficult decision judges are called upon to make.¹¹ The very fact of the states' intrusion into the family is a matter that many would agree warrants close judicial scrutiny. The rights of the family to privacy and integrity have been recognized as fundamental and of constitutional significance.¹² Wald states it has been a basic tenet of our laws that parents have broad freedom with regard to childrearing.¹³ The United States Supreme Court, in the 1972 case Stanley v. Illinois,¹⁴ stated:

The Court has frequently emphasized the importance of the family. The rights to conceive and to raise one's children have been deemed "essential" The integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment¹⁵

According to the United States Supreme Court, parents have the right, protected by the 14th amendment guarantees, to due process and equal protection, and to rear their

¹¹Howard A. Davidson, Representing Children and Parents In Abuse and Neglect Cases. (Washington, D.C.: American Bar Association: Young Lawyers Division, 1980), p. 4.

¹²Ibid., p. 4.

¹³Michael Wald, "State Intervention on Behalf of 'Neglected' Children: A Search for Realistic Standards," 27 Stanford Law Review, (April 1975), p. 989.

¹⁴Stanley v. Illinois, 405 U.S. 645, 651 (1972).

¹⁵Ibid., p. 651.

children as they see fit.¹⁶ The major case defining the privacy rights of families concerning the parent's right to have their child attend a private school is Pierce v. Society of Sisters.¹⁷ Another case, Meyer v. Nebraska,¹⁸ defends the privacy rights of families to engage their child in foreign language instruction. However, in the case Parham v. J. R.,¹⁹ the Supreme Court stated the state is not without constitutional control over parental discretion in dealing with children when their physical or mental health is in danger.²⁰

Meyer v. Nebraska
262 U.S. 390 (1923)

Facts

State statute prohibited the teaching of any modern language, other than English, to any child who had not successfully passed the eighth grade. The law was applied to convict an instructor who taught reading in German to a ten year old child.²¹

¹⁶Barbara Caulfield, Child Abuse And The Law, (Chicago, National Committee For Prevention of Child Abuse, 1979), p. 15.

¹⁷Pierce v. Society of Sisters, 268 U.S. 510, 535 (1925).

¹⁸Meyer v. Nebraska, 262 U.S. 390, 399 (1923).

¹⁹Parham v. J.R., 442 U.S. 584, 609 (1979).

²⁰Ibid., p. 603.

²¹Meyer v. Nebraska, op. cit., p. 390.

Decision

The statute was an unconstitutional invasion of the instructor's liberty to pursue a given occupation guaranteed by the Fourteenth Amendment, and the statute exceeded the State's police power to legislate for protection of the public welfare.

Discussion

The right to choose and pursue a given legitimate occupation is within the liberty guaranteed by the Fourteenth Amendment.²² The instructor taught this language as part of his occupation. His right to teach, the right of his pupils to acquire knowledge, and the rights of the parents to engage him to instruct their children was within the liberty of the Fourteenth Amendment.²³

This liberty may not be interfered with under the guise of protecting the public welfare, by legislation which is arbitrary or without reasonable relation to some State purpose.²⁴ Proficiency in a foreign language seldom comes to one not instructed at an early age, and experience shows that this is not injurious to the health, morals or understanding of the ordinary child.²⁵ Therefore, the law was arbitrary,

²²Ibid., p. 391.

²³Ibid., p. 400.

²⁴Ibid., p. 399-400.

²⁵Ibid., p. 403.

unreasonable and violated the Fourteenth Amendment of the United States Constitution.

Pierce v. Society of Sisters
268 U.S. 510 (1925)

Facts

An Oregon statute²⁶ which was to take effect in September 1926 required all normal children between the ages of eight and sixteen to attend public schools until the completion of the eighth grade. The statute seriously impaired the operation of sectarian and secular private schools within the state.²⁷ Private School Corporations sought a court order restraining enforcement of this statute.²⁸

Decision

The state may reasonable regulate all schools and may require compulsory attendance at some schools, but the state may not deny children the right to attend adequate private schools and force them to attend only public schools.

Discussion

The Fourteenth Amendment protects persons from arbitrary state action impairing life, liberty, or property interests.

²⁶Oreg. Ls., 5259.

²⁷Perry A. Zirkel, A Digest of Supreme Court Decisions Affecting Education (Bloomington, Indiana, Phi Delta Kappan, 1978), p. 16.

²⁸Ibid., p. 16.

The fundamental theory of liberty upon which all governments in the United States repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only.²⁹ The act unreasonably interferes with the liberty of parents to direct the education of their children. The courts stated:

Under the doctrine of Meyer v. Nebraska,³⁰ we think it entirely plain that the Act of 1922 unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control. As often heretofore pointed out, rights guaranteed by the Constitution may not be abridged by legislation which has no reasonable relation to some purpose within the competency of the State.³¹

May v. Anderson
345 U.S. 528 (1953)

Facts

Mr. Anderson filed a petition for a writ of habeas corpus in Ohio alleging that his former wife was illegally restraining the liberty of their children by refusing to deliver them to him in response to a court decree issued in Wisconsin.³²

Decision

In a habeas corpus proceeding that attacks the rights of

²⁹Pierce v. Society of Sisters, 268 U. S., p. 535

³⁰Meyer v. Nebraska, 262 U.S.

³¹Pierce v. Society of Sisters, pp. 534-535.

³²May v. Anderson, 345 U.S., p. 528.

a parent to retain her children, a state court is not bound to give effect to a decree awarding custody to the father, when he obtained the decree in an ex parte divorce action in another state that did not have personal jurisdiction over the mother.

Discussion

It is well settled that habeas corpus is not the appropriate action to determine which parent is entitled to custody of their minor children.³³ Furthermore, a state court may not cut off a parent's immediate right to her children without having personal jurisdiction over her. The mother in this case was not domiciled or present in the state when the habeas corpus proceeding was instituted. Thus, the court had no jurisdiction to cut off her parental rights.³⁴

Stanley v. Illinois
405 U.S. 645 (1972)

Facts

The children of an unwed father were declared state wards when their mother died. The state law provided that children of unwed fathers were declared dependents without any hearing on parental fitness and without proof of neglect. The father brought suit on the grounds that the law violated

³³Ibid., p. 532.

³⁴Ibid., p. 533.

the constitutional guarantees of due process and equal protection.³⁵

Decision

The law violated the guarantees of due process and equal protection. Due process entitled the father to a hearing on his fitness as a parent before his children were taken from him. Denial of the fitness hearing which was given to all other parents constituted a denial of equal protection of laws.³⁶

Discussion

"The Supreme Court has frequently emphasized the importance of the family."³⁷ The rights to conceive and raise one's children are essential,³⁸ and custody of children resides first in their parents.³⁹ The state cannot presume in general that unmarried fathers are neglectful and unfit to retain custody of their children.

Parham v. J.R.
442 U.S. 584 (1979)

Facts

Minor children brought a class action against the Commissioner of the Department of Human Resources. The

³⁵Stanley v. Illinois, op. cit., p. 645

³⁶Ibid., p. 647-58.

³⁷Ibid., p. 651.

³⁸Ibid.

³⁹Ibid.

children alleged that they had been deprived of their liberty without procedural due process by Georgia mental health laws. The laws permitted voluntary admission of minor children to mental hospitals by parents or guardians.

Decision

Georgia's procedures for admitting a child to a state mental hospital were reasonable and consistent with the constitutional guarantees of due process.

Discussion

Children have a liberty interest in not being unnecessarily confined for medical treatment. However, parents—who have the responsibility of raising their children—retain a substantial, if not dominant role, in the decision to institutionalize a child, subject to an independent medical judgment.⁴⁰ The risk of error inherent in the parental decision to institutionalize a child is so great that some kind of inquiry should be made by a neutral fact finder to determine whether governmental requirements for admission are met. The inquiry must probe the child's background.⁴¹ This governmental power may not supersede parental authority in all cases, but the state is not without constitutional control over parental discretion in dealing

⁴⁰Parham v. J.R., op. cit., p. 604.

⁴¹Ibid., p. 606-07. See Goldberg v. Kelly, 397 U.S. 254 (1970), Morrissey v. Brewer, 408 U.S. 471 (1972).

with children when their physical or mental health is jeopardized.⁴²

CAN INVESTIGATIONS OF HOMES OF ALLEGED CHILD ABUSERS BE MADE WITHOUT WARRANTS?

School social workers are a direct link between the school and the homes of students. Their duties include investigative visits to homes when problems are suspected by school teachers or administrators.

The fourth amendment does not apply directly to child abuse and neglect investigations, but the United States Supreme Court has suggested some guidelines in a similar type of investigation.⁴³ In Wyman v. James,⁴⁴ the Court held that warrantless visits to welfare recipients' homes do not violate the Fourth Amendment when:

1. The purpose of the visit is for the welfare of the person visited.
2. The visit is not aimed at criminal prosecution.
3. The welfare recipient has had advance notice of the visit.
4. The visit comports with department procedures that
 - .ensure privacy;
 - .prohibit forcible entry;
 - .prohibit use of false pretenses to gain entry, and
 - .prohibit visits after normal working hours.⁴⁵

⁴²Ibid., p. 603. See Wisconsin v. Yoder, 406 U.S. 205 at 230 (1972), Prince v. Massachusetts, 321 U.S. 158 at 166 (1944).

⁴³Caulfield, op. cit., p. 17.

⁴⁴Wyman v. James, 400 U.S. 309, 314.

⁴⁵Caulfield, op. cit., p. 17.

Wyman v. James
400 U.S. 309 (1971)

Facts:

An Aid to Families with Dependent Children (AFDC) beneficiary refused to allow a caseworker to visit the home where the dependent child lived. The benefits were terminated. The AFDC program only permitted visits by caseworkers during working hours and prohibited forceable entries.⁴⁶ The AFDC beneficiary sought injunctive relief on the grounds that the visit by the caseworker, at the risk of the AFDC benefits, was an unreasonable search in violation of the Fourth Amendment.⁴⁷

Decision

No search was involved. If the visit took place, then it was at the consent of the beneficiary. Acceptance of the benefits constituted consent to the visit.⁴⁸ Even assuming a visit is a search, it would not be an unreasonable search as prohibited by the Fourth Amendment. The AFDC program's guidelines ensured that the beneficiary's privacy was only minimally infringed⁴⁹ and the visit promoted weighty state interests.⁵⁰

⁴⁶Wyman v. James, op. cit., p. 314.

⁴⁷Ibid.

⁴⁸Ibid., p. 317-318.

⁴⁹Ibid., p. 318-320.

⁵⁰Ibid., p. 320-324.

Discussion

The requirement of the visit by the caseworker is "akin" to the requirement of proof of deduction during an Internal Revenue Service audit. If no proof is offered, there is no deduction.³¹ The taxpayer is within his rights to refuse the proof at the risk of losing the deduction. Similarly, the beneficiary has the right to refuse the visit at the risk of losing the AFDC benefits. The consequence of refusal in the tax audit is increased tax; in the AFDC visit situation, the consequence of refusal is a cessation of benefits. Neither results in unconstitutional conduct.³²

Assuming, arguendo, that a search is involved, it is reasonable.³³ First, the AFDC program guidelines maximize privacy of the beneficiary by only allowing visits during working hours, after giving notice and by prohibiting force.³⁴

Second, the rights of the beneficiary are secondary to the rights of the dependent child.³⁵ As long as the primary objective of the caseworker is the welfare of the child, the fact that criminal activity may be found as a result of the

³¹Ibid., p. 324.

³²Ibid.

³³Ibid., p. 318.

³⁴Ibid., p. 320-324.

³⁵Ibid., p. 318-320.

visit does not make the search sufficiently criminally investigative to bring it under the constitutional warrant requirement.³⁶

Third, the visits are necessary to protect the child against abuse and to ensure that the public's money is being spent properly. The visit is necessary to properly administer the program.³⁷

WHAT CONSTITUTES AN ABUSED OR NEGLECTED CHILD?

In order for an educator to decide when to report a case to the Protective Services Department the educator should first know what constitutes abuse and neglect of a child. A child does not have to actually be threatened with physical harm to be abused or neglected. The North Carolina statutory definition of the neglected juvenile³⁸ has withstood judicial scrutiny when challenged on the ground that it was unconstitutionally vague.³⁹ In the case In re Biggers⁴⁰ the court found that the terms used in the definition were given precise and understandable meaning by the normative standards imposed upon parents by our society.⁴¹

³⁶Ibid., p. 322-323.

³⁷Ibid., p. 326

³⁸N. C. Gen. Stat. 7A-517.

³⁹Mason, op. cit., p. 7.

⁴⁰In re Biggers, op. cit., p. 236.

⁴¹Ibid., p. 241-42.

The proper care and supervision of a child is important and the required care and supervision is broad, including for example, the provision of a basic education such as enrollment in a school.⁶² The Court found the parents to be neglectful in the In re McMillan⁶³ case for failing to provide their child such education. The Court found the children were without proper care and support in the case In re Interest of Campbell⁶⁴ and terminated parental rights due to the parents' inability to provide support and supervision. Mason states while necessary medical or remedial care has not been precisely defined, the North Carolina Court of Appeals, in the case of In re Huber,⁶⁵ held that a child was neglected when her mother refused to allow treatment for the child's severe hearing and speech defects.

In re McMillan
30 N.C. App. 235, 226 S.E.2d 693 (1976)

Facts

Parents refused to send their two young children to school because they were not taught Indian heritage and culture. At issue was whether children are neglected when

⁶²Mason, op. cit., p. 7.

⁶³In re McMillan, 30 N.C. App. 235, 226 S.E.2d 693 (1976).

⁶⁴In re Interest of Campbell, 303 N.W2d 513, 514 (Neb. 1981).

⁶⁵In re Huber, 57 N.C. App. 453, 291 S.E.2d 916 (1982).

their parents willfully refuse to allow them to attend school.⁶⁶

Decision

Where parents refuse to permit their children to attend public schools and they do not provide a sufficient alternative education or training for the children, the children are neglected under state law.⁶⁷

Discussion

A child is neglected when he does not receive proper care or supervision.⁶⁸ A child who receives proper care and supervision is provided a basic education. A child does not receive proper care and lives in an environment injurious to his welfare when he is refused this education. The rights of parents to raise a child may be interfered with or denied when the interest and welfare of the child requires it.⁶⁹

In re Biggers

50 N.C. App. 332, 274 S.E.2d 236 (1981)

Facts

The parents of children adjudged under state law as neglected appealed on the grounds that the North Carolina neglect statute was unconstitutionally vague and violated the equal protection clause.

⁶⁶In re McMillan, op. cit., p. 693.

⁶⁷Ibid., p. 695.

⁶⁸Ibid., p. 694.

⁶⁹Ibid., p. 695.

Decision

The statute was not unconstitutionally vague nor did it violate the equal protection clause of the Fourteenth Amendment. The law applied to all parents equally and allowed specific consideration of their individual circumstances.

Discussion

The equal protection clause requires that any legislative classification "be based on differences that are reasonably related to the purposes of the Act in which it is found."⁷⁰ The classification will be upheld if; (1) it is founded upon reasonable distinctions; (2) it affects all persons similarly situated without discrimination; and (3) it has some reasonable relation to the public peace, welfare and safety.⁷¹ The State undoubtedly has a compelling interest in the health, welfare and safety of children, and this interest is directly related to the purpose of the statute. It is not an unreasonable or arbitrary exercise of police power for the State to intervene between parent and child where the child

⁷⁰In re Biggers, 50 N.C. 332, 274 S.E.2d 236, 240 (1981), quoting Morey v. Doud, 354 U.S. 457, 465 (1957).

⁷¹Ibid., at 240. See State v. Greenwood, 280 N.C. 651, 187 S.E.2d 8 (1972); Clark's Charlotte, Inc. v. Hunter, 261 N.C. 222, 134 S.E.2d 364 (1964); In re Moore, 289 N.C. 95, 104, 221 S.E.2d 307, 313 (1976); Duggins v. Board of Examiners, 294 N.C. 120, 240 S.E.2d 406 (1978).

is endangered by parental neglect, inattention, or abuse.⁷²

The North Carolina Court of Appeals further determined that the Child Neglect Statute was not void for vagueness.

The vagueness doctrine has been enunciated as follows:

A statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates . . . due process of law . . . Even so, impossible standards of statutory clarity are not required by the constitution. When the language of a statute provides adequate warning as to the conduct it condemns and prescribes boundaries sufficiently distinct for judges and juries to interpret and administer in uniformly, constitutional requirements are fully met. United States v. Petrillo, 332 U.S. 1 (1947).⁷³

This court has not found it difficult to give precise meaning to the definition of a neglected child by analyzing the factual circumstances of the case before it and weighing the compelling interests of the State with those of the parent and child.⁷⁴ The terms used in the state law's definition of a neglected child are given precise meaning by the normal standards imposed upon parents by our society, and

⁷²Ibid., p. 241. See In re Lassiter, 43 N.C. App. 525, 527, 259 S.E.2d 336, 337 (1979), review denied, 299 N.C. 120, 262 S.E.2d 6 (1980).

⁷³Ibid. See In re Burrus, 275 N.C. 517, 531, 169 S.E.2d 879, 888 (1969), aff'd, 403 U.S. 529 (1971).

⁷⁴Ibid., In re Cusson, 43 N.C. App. 333, 258 S.E.2d 858 (1979); In re McMillan, 30 N.C. App. 235, 226 S.E.2d 693 (1976).

therefore, parents are given sufficient notice of the types of conduct that constitute child neglect in the state.⁷⁵

In re Interest of Campbell
303 N.W.2d 513 (1981)

Facts

A petition was filed with the juvenile court alleging that the children of Louise Campbell were without proper support and care and that Louise Campbell was unable to provide support, care, and supervision. That court placed the children in foster care, and soon after, terminated Louise Campbell's parental rights.⁷⁶

Decision

Parental rights may be terminated where the record shows the parents have continuously and repeatedly neglected the children, have refused to give the children necessary parental care and protection, and the action is in the best interests of the children.⁷⁷

Discussion

The record showed that Louise Campbell suffered from paranoid schizophrenia and had a history of drug abuse. The children suffered from poor hygiene, were improperly fed and

⁷⁵Ibid., p. 241-42.

⁷⁶In re Interest of Campbell, op. cit., p. 513.

⁷⁷Ibid. See also In re Interest of Moen, 208 Neb. 337, 303 N.W.2d 303 (1981).

clothed, and were left unattended for extended periods. They were often absent from school because of frequent moves.⁷⁹ The court upheld the termination of parental rights due to the parents inability to provide the children with proper care, support and supervision.⁷⁷

In re Huber
57 N.C. App. 453, 291 S.E.2d 916 (1982)

Facts

A child with severe speech and hearing defects was refused care and treatment by her mother. The District Court found that the child was a "neglected juvenile" under state law. The mother appealed on the grounds that the definition of a "neglected juvenile" under state law was unconstitutional.⁸⁰

Decision

The law's definition of "neglected juvenile" was not unconstitutionally vague nor did it violate constitutional safeguards regarding equal protection. The North Carolina Court of Appeals found that a child with severe speech and hearing defects who is refused treatment by a parent is neglected.

⁷⁹Ibid.

⁷⁷Ibid.

⁸⁰In re Huber, op. cit., p. 917.

Discussion

A law is not unconstitutionally vague when the language of a statute provides adequate warning of the conduct it condemns, and prescribes sufficient boundaries for judges and juries to interpret and uniformly apply the law. The terms used in the North Carolina Child Neglect Statute are precise and understandable. They include normal standards imposed upon parents by our society; therefore, parents are given sufficient notice of the types of conduct that constitute neglect in the state.⁸¹

The statute further provides equal protection in that the classification of neglected children; (1) is founded upon reasonable distinctions; (2) affects all persons similarly situated without discrimination; and (3) has a reasonable relation to the peace, welfare and safety of the public.⁸²

The court applied the law to the facts of this case and determined the child in question was neglected. The child's defects were treatable by medical and remedial care. The mother refused to allow treatment even though it was available at no cost. Without treatment the child would have suffered serious and permanent harm.⁸³

⁸¹Ibid., p. 919. See In re Biggers, 50 N.C. App. 332, 274 S.E.2d 236, 241-42 (1981).

⁸²Ibid., p. 919. See In re Moore, 289 N.C. 95, 221 S.E.2d 307 (1976); In re Biggers, 50 N.C. App. 332, 274 S.E.2d 236 (1981).

⁸³Ibid., p. 919. The child would have been unable to communicate with other persons and unable to read.

ON WHAT EVIDENCE SHOULD AN EDUCATOR FORESEE OR PREDICT FUTURE CHILD ABUSE?

In the case of National Bank of South Dakota v. Leir,⁸⁴ social workers had placed 2 girls in a foster home where they were sexually and physically abused for 2 years. During that time neighbors reported incidents of abuse to the social workers but the girls were not removed from the foster home. The social workers were held liable on the theory that they should have reasonably foreseen the possibility of future abuse if the girls were not removed from the foster home; the neglect of the social workers to so remove the girls made the continuing abuse possible.

By seeing children on a daily basis, a teacher and administrator have a special relationship with young children in their care.⁸⁵ They have a unique opportunity to observe any abnormal external physical injuries and any abnormal behavior. The legal concern in this relationship is whether based on past experiences and observations in a particular case, the educator should be held to foresee future "continued" child abuse.⁸⁶ In the case Cox v. Barnes,⁸⁷ the

⁸⁴National Bank of South Dakota v. Leir, 325 N.W.2d 845, 846 (S.D. 1982).

⁸⁵National Association of Secondary School Principals, A Legal Memorandum: Child Abuse and Neglect (Reston, Va., Nov. 1980) p. 3.

⁸⁶Ibid., p. 3.

⁸⁷Cox v. Barnes, 469 S.W.2d 61, 62-3 (Ky. Ct. App. 1971).

principal was found not negligent because he fulfilled his duty by giving appropriate instructions and specified certain conditions for a school field trip.⁶⁶

Cox v. Barnes
469 S.W.2d 61 (Ky. Ct. App. 1971)

Facts

Students at Fredonia High School took an all day outing to the state park. The high school principal required the students to provide a lifeguard if they swam at the park. The basketball coach was chosen to serve as the lifeguard. However, one student drowned at the park. A negligence suit was brought against the accompanying teacher, basketball coach and principal.⁶⁷

Decision

Since the high school principal gave appropriate instructions and specified conditions for safety in the outing, the student's drowning was not reasonably foreseeable, and therefore, the principal was not equally responsible.

Discussion

A principal has a duty to supervise school activities. He may be liable for negligence in fulfilling his duty. The principal fulfilled his duty when he gave appropriate

⁶⁶Ibid., p. 63.

⁶⁷Ibid.

instructions and specified certain conditions for the trip to ensure the students'⁹⁰ safety against all reasonably foreseeable risks.

WHAT IS THE EFFECT OF THE FAILURE TO REPORT SUSPECTED CHILD ABUSE?

Under the law of civil negligence, violation of a statutory duty, such as mandatory reporting of suspected child abuse and neglect, is negligence in itself. That means that if it can be proven that a person willfully or negligently failed to report known or suspected child abuse or neglect, he or she can be sued for the injuries and damages that occurred after the time when a report should have been made.⁹¹ This principle has recently been applied to child abuse and neglect cases when reports of suspected abuse or neglect were not made.

Two California cases, Robinson v. Wical, M. D., et al.⁹² and Landeros v. Flood,⁹³ concern children suffering serious injuries from abuse subsequent to a hospital's failure to report its suspicions of possible child abuse. These cases have received considerable attention and could

⁹⁰Ibid., p. 63

⁹¹A Legal Memorandum, op. cit., p. 2

⁹²Robinson v. Wical, M.D. et al., Civil No. 37607, California Superior Court, San Luis Obispo, Sept. 4, 1970).

⁹³Landeros v. Flood, 131 Cal. Rptr. 69, 551 P.2d 389 (1976).

apply to school administrators.⁹⁴ The case Beuning v. Waun⁹⁵ served to show school systems the importance of reporting a case to authorities. The cases People v. Stritzinger⁹⁶, Dick v. Watanwan County⁹⁷ and Roman v. Appleby⁹⁸ raise questions about the educator's responsibility to report cases of child abuse and neglect and the protection from civil and criminal prosecution afforded by the law.⁹⁹ In People v. Stritzinger, the court stated the need to protect children from abuse outweighs the value of the psychotherapist-patient privilege.¹⁰⁰ In both the Dick and Roman decisions the court stated the counselor had a duty under the law to report to the County Children's Services Office when a child exhibited evidence of serious physical or mental injury.¹⁰¹ Courts have stated repeatedly that when a child's emotional well-being may be

⁹⁴A Legal Memorandum, op. cit., p. 2.

⁹⁵Beuning v. Waun, No. 80 - 214118 (Circ. Ct., Oakland County, Nov. 7, 1980).

⁹⁶People v. Stritzinger, 137 Cal. App.3d 135 186 Cal. Rptr. 750, 751 (1982).

⁹⁷Dick v. Watanwan County, 551 F. Supp. 983, 985.

⁹⁸Roman v. Appleby, 558 F. Supp. 449, 453 (E.D. Pa. 1983).

⁹⁹Beezer, op. cit., p. 434.

¹⁰⁰People v. Stritzinger, op. cit., p. 732

¹⁰¹Roman v. Appleby, op. cit., p. 457.

threatened...the state's interest in his mental health will override free exercise claims.¹⁰²

4Robinson v. Wical, M.D. et al.
Civil No. 37607, California Superior Ct.

Facts

A mother and a boyfriend who brought her 12 year old son to a hospital twice in a twelve hour period with severe injuries. Neither time did the hospital report abuse to the appropriate agencies. A day later they brought the child to a second hospital with what turned out to be permanent brain damage.¹⁰³

Discussion

The boy's father sued the first hospital and others for negligence in failing to report the case. Reporting earlier allegedly might have saved the child from permanent brain damage. The case was eventually settled out of court for \$600,000.

Landeros v. Flood
131 Cal. Rptr. 69, 551 P.2d 389 (1976)

Facts

A child was repeatedly beaten by her parents during her first year of life. When the child was 11 months old, her mother took her to the hospital for treatment. Even though

¹⁰²Ibid., p. 456.

¹⁰³Robinson v. Wical, M.D. et al., op. cit., p. 302.

the infant exhibited battered child syndrome, the attending physician failed to diagnose her condition. The physician also failed to report her condition to local law enforcement authorities.¹⁰⁴ The child brought suit against the physician and the hospital alleging that civil damages were due her because of the failure to diagnose her condition and that failure to report her condition violated the state's penal code.

Decision

The physician and hospital could be held liable for injuries sustained by the child if they negligently failed to diagnose and report battered child syndrome.

Discussion

A physician is required to possess and exercise, in both treatment and diagnosis, the reasonable knowledge and skill that is ordinarily possessed and exercised by other members of his profession in similar circumstances.¹⁰⁵ The diagnosis of battered child syndrome has become an accepted diagnosis in the medical profession. Thus, the physician and hospital could be held liable for injuries sustained by the child if they negligently failed to diagnose battered child syndrome.¹⁰⁶

¹⁰⁴Landeros v. Flood, *op. cit.*, p. 389.

¹⁰⁵Ibid., p. 392-393.

¹⁰⁶Ibid., p. 394.

The physician and hospital could also be liable for injuries sustained by the child if they failed to report battered child syndrome to authorities as required by the state's penal code. The court found that the physician could be liable under the penal code only if it was shown that it "actually appeared to the physician that injuries were intentionally inflicted upon the child."¹⁰⁷

Beuning v. Waun
No. 80 - 214198 (Cir. Ct. Oakland Co.)

Facts

This case was filed in the circuit court of Oakland County on Nov. 7, 1980. Dawn Beuning, a 17 year old high school student alleged the school principal William Waun failed to report a case of child abuse as required by statute. The plaintiff relied on the provision of the state reporting laws as the basis of her cause of action.¹⁰⁸

Discussion

Richard Tuyn, ¹⁰⁹ Oakland County School Board Attorney said the school board took a hard line stand and told the family they would not pay the \$15,000 suggested by the three

¹⁰⁷Ibid., p. 396-397. West's Ann. Cal. Code Section 11151.5 (1982).

¹⁰⁸Beuning v. Waun, No. 80 - 214118 (Circ. Ct., Oakland County, Nov. 7, 1980).

¹⁰⁹Richard Tuyn, Oakland Co. School Board Attorney, telephone conversation, July 23, 1985.

attorneys on the Review Board called the Mediation Process in Michigan. Miss Beuning had sued her private psychologist the year before and received \$25,000 for his failure to report sexual abuse by her stepfather. After the staunch rejection by the school board Miss Beuning dropped the charges. Tuyn said the school system is extremely careful now to report any indication of abuse.

Groff v. State
390 So.2d 361 (Fla. Dist. Ct. App. 1980)

Facts

The State of Florida charged a psychiatrist with failure to report child abuse. Florida law provides that one who fails to report child abuse is guilty of a second degree misdemeanor.

Decision

The information that charged the psychiatrist with failure to report child abuse was defective because it did not allege that the psychiatrist was subject to penalties under the state law.¹¹⁰

Discussion

The state law provides that:

- (a) any person responsible for the care of a child who fails to report a case of known or suspected child abuse or
- (b) any person who knowingly or willfully prevents another person from making a report

¹¹⁰Groff v. State, 390 S.2d 361, 362 (Fla. Dist. Ct. App. 1980).

may be guilty of a second degree misdemeanor.¹¹¹ The information did not allege either (a) or (b). Therefore, it did not allege sufficient facts to show that the psychiatrist was subject to any criminal penalty.

People v. Stritzinger
137 Cal. App. 3d 135, 186 Cal. Rptr. 750 (1982)

Facts

The defendant sexually molested his thirteen year old stepdaughter. Both the defendant and stepdaughter saw a psychologist for counselling. The psychologist notified the child welfare agency of suspected child abuse. Subsequently, the psychologist related to authorities information revealed to him by the defendant. The information was received in the form of testimony at the stepfather's trial in which he was convicted of child molestation. The defendant appealed the conviction contending that the admission of the testimony violated the psychotherapist-patient privilege under state law.¹¹²

Decision

The psychotherapist-patient privilege is limited by another state statute which requires disclosure of reports of child abuse.¹¹³

¹¹¹Ibid., p. 362, Fla. Stat. Section 827.07(14) (1977).

¹¹²People v. Stritzinger, 137 Cal. App.3d 135 186 Cal. Rptr. 750, 751 (1982).

¹¹³Ibid., p. 752.

Discussion

The danger of child abuse is great and its continuation assured if the psychotherapist who suspects abuse fails to disclose that information to the proper authorities. Public policy favoring protection of the confidential character of psychotherapist-patient information must yield to the extent to which disclosure is essential to avoid the danger of child abuse. The need to protect children from abuse outweighs the value of the privilege.¹¹⁴

Dick v. Watonwan County
551 F. Supp. 983 (D. Minn. 1982)

Facts

A high school guidance counselor started a discussion group that dealt with students' problems at home and in school. In a private conversation, a student from the group raised the issue of foster care because she wanted to leave home for awhile. Her reason was that her parents drank too much and had violent arguments.

The guidance counselor reported the situation to the county welfare department. The welfare department found that there was enough evidence for sufficient grounds to seek a dependency petition so the student could be placed in foster care.

¹¹³Ibid., p. 752.

¹¹⁴Ibid.

The county attorney prepared petitions for commitment for the student's parents. They were arrested and committed to a detoxification center for three days and then released. (The parents were not drinking at the time of arrest). After their release they filed suit against the counselor for violations of their civil rights on grounds of false arrest and imprisonment.¹¹⁵

Decision

The counselor had a duty under state law to report suspected neglect or abuse. In addition, she was entitled to good faith immunity under federal law.¹¹⁶

Discussion

The court rejected the parent's argument that the counselor initiated their commitment proceedings. The evidence showed the student first raised the issue of foster care. There was no evidence that the counselor encouraged the student to fabricate stories about the parents' drinking that could be used as a basis for foster care. The court considered the fact that the counselor had a duty under state law to report suspected neglect or abuse.¹¹⁷ In addition, the counselor acted in good faith and was immune from the suit under federal law.¹¹⁸

¹¹⁵Dick v. Watonwan County, op. cit., p. 985.

¹¹⁶Ibid., p. 996.

¹¹⁷Ibid. Minn. Stat. Section 626.556(3).

¹¹⁸Ibid. See Wood v. Strickland, 420 U.S. 308, 322 (1975); Scheuer v. Rhodes, 416 U.S. 232, 247-48 (1974).

Roman v. Appleby
558 F. Supp. 449 (E.D. Pa. 1983)

Facts

A high school counselor conducted a series of counseling sessions with a tenth grade student. The first session was initiated by the student, but the remainder were encouraged by the counselor. The student's mother knew of the sessions, but did not authorize the counselor to question her son about his immediate family, including his affection or non-affection for, or intimate relations with family members, the manner in which his parents raised him, sex, masturbation, and homosexuality, or God, heaven and hell. During the sessions, the counselor told the student his parents were too strict and too conservative.¹¹⁹

The counselor also had a conference with the parents to encourage them to seek mental health counseling for their son. When they did not, the counselor referred the matter to the Children's Services Office.¹²⁰ After an investigation by Children's Services, the parents brought suit against the school counselor alleging that their constitutional rights were violated. Those rights included the right to free exercise of religion, and the right to "maintain a private family relationship without unnecessary, unreasonable, and

¹¹⁹Roman v. Appleby, op. cit., p. 453.

¹²⁰Ibid.

capricious governmental interference and control . . ."¹²¹

Decision

The counselor had qualified immunity from the suit because she did not violate any constitutional rights and because the Child Protective Services' Law required her to report to the County Children's Services' Office when a child exhibited evidence of serious physical or mental injury.¹²²

Discussion

Good faith immunity defeats claims so long as official conduct does not violate "clearly established statutory or constitutional rights of which a reasonable person would have known."¹²³ "Courts have stated repeatedly that where a child's emotional well-being may be threatened . . . the state's interest in his mental health will override free exercise claims."¹²⁴

The defense of qualified immunity was further supported by the Child Protection Services' Law. The law provided that any person who in the course of their profession came into contact with children shall report, when they have reason to

¹²¹Ibid., p. 454.

¹²²Ibid., p. 457.

¹²³Ibid., p. 455, citing Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982).

¹²⁴Ibid., p. 456. See Wisconsin v. Yoder, 406 U.S. 205, 230, 233-34 (1972); Prince v. Massachusetts, 321 U.S. 158, 169-70 (1943); Wynn v. Carey, 582 F.2d 1375, 1384-86 (7th Cir. 1978).

believe that a child is abused.¹²⁵ Section 2211 of the Act provided immunity from suit for those persons required to report who made the report in good faith.

SHOULD REPORTERS AND NON-REPORTERS OF SUSPECTED CHILD ABUSE
HAVE IMMUNITY FROM CIVIL LIABILITY?

Many educators hesitate to report cases of abuse and neglect because they are afraid that parents will sue them for defamation of character, invasion of privacy or violation of some civil right.¹²⁶ All state statutes clearly state however that a report made in good faith is immune from civil or criminal liability.¹²⁷ The doctrine of good faith, set out in Wood v. Strickland,¹²⁸ held that a defense of qualified immunity would be defeated if an official:¹²⁹

....knew or reasonably should have known
that the action he took within his sphere of

official responsibility would violate the
constitutional rights of the [plaintiff], or if
he took the action with the malicious
intention to cause a deprivation of
constitutional rights or other injury.¹³⁰

¹²⁵Child Protective Services Law of 1975 11 P.S. Section 2201, et seq. (emphasis added).

¹²⁶Bruce Beezer, "Reporting Child Abuse and Neglect: Your Responsibility and Your Protection," Phi Delta Kappan 66, (February 1985), p. 435.

¹²⁷See Table VIII, p. 74-75.

¹²⁸Wood v. Strickland, 420 U.S. 308, 308-14 (1975).

¹²⁹Beezer, op. cit., p. 436.

¹³⁰Wood v. Strickland, op. cit., p. 320

In the case National Bank of South Dakota v. Leir,¹³¹ the Supreme Court of South Dakota held that social workers, as state employees, are not immune from suit for acts of negligence under the sovereign immunity doctrine.¹³²

Wood v. Strickland
420 U.S. 308 (1975)

Facts

Students expelled from school brought suit against school officials. The school officials claimed they were immune from suit.¹³³

Decision

While school officials are entitled to a qualified good faith immunity from liability for civil damages, they are not immune; (1) if they knew or reasonable should have known that the action they took within their sphere of official responsibility would violate constitutional rights; or (2) if they took the action with malicious intent to cause deprivation of such rights or other injury.¹³⁴

Discussion

Qualified immunity is necessary to encourage effective action by government officers charged with considerable

¹³¹National Bank of South Dakota v. Leir, 325 N.W.2d 845, 846 (S.D. 1982).

¹³²Ibid., p. 849.

¹³³Wood v. Strickland, op. cit., p. 308.

¹³⁴Ibid., p. 322.

responsibility and discretion.¹³⁵ School officials have many functions that involve the exercise of discretion in the areas of student behavior. Liability for damages for every action found to violate a student's constitutional rights would unfairly impose the burden of the school official for good faith mistakes and deter the independent decision making necessary for the long term best interest of the school and the students.¹³⁶

The appropriate standard for application of qualified immunity contains both an objective and subjective test of good faith.¹³⁷ The official must act sincerely with a belief that he is doing right, but action that violates a student's constitutional rights cannot be anymore justified by ignorance or disregard of clearly established law by one entrusted with supervision of students' daily lives than by the presence of actual malice.

National Bank of South Dakota v. Leir
325 N.W.2d 845 (S.D. 1982)

Facts

Social workers placed two sisters in a foster home where they were sexually and physically abused for two years.

¹³⁵Ibid., p. 317-19. See Pierson v. Ray, 386 U.S. 547, 544 (1967).

¹³⁶Ibid., p. 320.

¹³⁷Ibid., p. 321.

During the two years, neighbors reported incidents of abuse to the social workers but the sisters were not removed from the foster home. A guardian ad litem for the sisters filed suit against the social workers alleging that their neglect made possible the continuing abuse. The social workers contended that they were immune from suit under the doctrine of sovereign immunity.¹³⁸

Decision

The doctrine of sovereign immunity does not apply to ministerial functions of social workers.¹³⁹

Discussion

Sovereign immunity applies to the employees who, while acting within the scope of his employment, exercises a discretionary function.¹⁴⁰ A state employee who fails to perform a ministerial duty is liable for the proximate results of his failure to any person to whom he owes performance of such a duty.¹⁴¹ A social worker's function of the placement, maintenance and care of children in foster

¹³⁸National Bank of South Dakota v. Leir, 325 N.W.2d 845, 846 (S.D. 1982).

¹³⁹Ibid., p. 849.

¹⁴⁰Ibid., p. 848.

¹⁴¹Ibid., p. 848. State v. Ruth, 9 S.D. at 90, 68 N.W. at 190.

care are ministerial, ¹⁴² and consequently, the doctrine of sovereign immunity is not available to bar liability.¹⁴³

WHAT IS THE COMPETENCY OF THE CHILD WITNESS?

A recurring problem in child abuse and neglect cases is where a child's testimony is sought. The ability of the child to testify is sometimes questioned.¹⁴⁴ The test used in Federal courts to determine whether or not a child should be allowed to testify was articulated by the United States Supreme Court in the 1895 case of Wheeler v. United States.¹⁴⁵ In that case, the Court held that a five year old boy would be allowed to testify in a murder trial. The Court said:

[The] boy was not by reason of his youth, as a matter of law, absolutely disqualified as a witness. . . .While no one would think of calling as a witness an infant only two or three years old, there is no precise age which determines the question of competency. This depends upon the capacity and intelligence of the child, his appreciation of the difference between truth and falsehood, as well as of his duty to tell the former. The decision of this question rests primarily with the trial judge, who sees the proposed witness, notices his

¹⁴²Ibid., p. 849. Hanson v. Rowe, 18 Ariz. App. 131, 500 P.2d 916 (1972); Elton v. County of Orange, 3 Cal. App.3d 1053, 84 Cal. Rptr. 27 (1970); Johnson v. State, 69 Cal.2d 782, 73 Cal. Rptr. 240, 447 P.2d 352 (1968); Koepf v. County of York, 198 Neb. 67, 251 N.W.2d 866(1977); Bartals v. County of Westchester, 76 A.D.2d 517, 429 N.Y.S.2d 906 (1980).

¹⁴³Ibid.

¹⁴⁴Caulfield, op. cit., p. 41.

¹⁴⁵Wheeler v. United States, 159 U.S. 523, (1895).

manner, his apparent possession or lack of intelligence, and may resort to any examination which will tend to disclose his capacity and intelligence as well as his understanding of the obligations of an oath. As many of these matters cannot be photographed into the record, the decision of the trial judge will not be disturbed on review, unless from that which is preserved it is clear that it was erroneous...¹⁴⁶

Wheeler v. United States
159 U.S. 523 (1895)

Facts

George Wheeler was convicted of murder and sentenced to hang.¹⁴⁷ During the trial, the five year old son of the murder victim testified against Wheeler. Wheeler appealed his conviction on the grounds that the five year old was an incompetent witness, and therefore, his testimony was inadmissible.¹⁴⁸

Decision

A child five years of age is not absolutely disqualified as a witness as a matter of law.¹⁴⁹

Discussion

There is no precise age which determines the age of competency. Competency depends on the capacity and

¹⁴⁶Ibid., p. 526.

¹⁴⁷Ibid., p. 523.

¹⁴⁸Ibid., p. 524.

¹⁴⁹Ibid.

intelligence of the child, and his appreciation of the difference between truth and falsehood as well as his understanding of the obligations of an oath.¹⁵⁰ This is to be ascertained from the child's answers propounded to him by the court. In this case, the child's answers were sufficient to authorize the trial judge's ruling that the child was a competent witness.¹⁵¹

SUMMARY OF CENTRAL FINDINGS

Competing constitutional and legal claims are found in a school setting. Students, teachers, parents, administrators, and the state as parens patriae, all have legitimate rights to further their respective goals.¹⁵² Thus, while there are constitutional rights to freedom and privacy, they may be circumscribed by a compelling state interest in protecting children from abuse and neglect. Family privacy is balanced by the states' obligations to protect children from harm.¹⁵³ The justices of the United States Supreme Court as well as noted authorities in the child development field are continuing to respect the rights of parents to raise their children as they think best, absent a clear showing that

¹⁵⁰Ibid.

¹⁵¹Ibid., p. 526.

¹⁵²Roman v. Appleby, op. cit., p. 456.

¹⁵³Caulfield, op. cit., p. 4.

their conduct has endangered their children.¹⁵⁴ Procedures established for reporting child abuse can better withstand judicial scrutiny if they contain safeguards which recognize the legal rights of all parties affected.

According to Joseph Bryson and Elizabeth Detty, school boards and administrators must be aware of the needs of teachers to make independent judgments based on their training and experience. School board policies must be drafted for the school systems and designed so as not to interfere with these judgment decisions.¹⁵⁵ On the other hand such policies must further assure that teachers and principals know the legal definitions for an abused child and for a neglected child, receive proper training for recognizing what constitutes sufficient evidence (and insufficient evidence) upon which the teacher should recognize or reasonably foresee child abuse, and be aware of the legal reporting requirements and procedures. Such written policies are essential to prevent the educator's actions from falling outside of any applicable limited immunities and to minimize exposure of the teachers, administrators and school system from civil liability in the courts.

¹⁵⁴Davidson, op. cit., p. 4.

¹⁵⁵Joseph E. Bryson and Elizabeth W. Detty, The Legal Aspects of Censorship of Public School Library and Instructional Materials, (Charlottesville, Va., The Michie Co., 1982), p. 141.

CHAPTER V

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

This study provides a comprehensive source of information for educational administrators to consider when making rules and procedures in dealing with child abuse and neglect. Research of the laws, procedures, and judicial decisions relating to child abuse, neglect and the public schools is presented.

Data and information for this study were obtained through an analysis of the following materials:

1. Current literature pertaining to child abuse and neglect;
2. The governing statutes of the 50 states; and
3. Selected Federal and state court cases dealing with individual rights of parents and children and child abuse and neglect.

Child abuse and neglect have emerged as two of the most critical and complex social problems in America. Increased public awareness has brought about legislative action and judicial attention. Reviewed in the study are legal issues related to the public schools and a projection of possible future court actions in regard to the legal direction of child abuse and neglect.

The first question listed in Chapter I was: What are the major issues regarding child abuse and neglect that concerns public elementary and secondary schools?

The major educational issues are:

1) What is the role of the State relative to children?

Under parens patriae authority the state assumes the role of the substitute parent of minor children. The decision in the landmark case Prince v. Massachusetts stated the family is not beyond regulation in the public interest. The state has a wide range of power for limiting parental freedom and authority in things affecting the child's welfare.

2) What effect might legal rights of parents have on child abuse laws?

The integrity of the family unit has found protection in the United States Constitution through the Due Process Clause of the Fourteenth Amendment. Major cases defining the privacy rights of families concerning parent's rights are Pierce v. Society of Sisters, Meyer v. Nebraska, May v. Anderson and Stanley v. Illinois.

3) Can investigations of homes of alleged child abuse be made without warrants?

The fourth amendment does not apply directly to child abuse and neglect investigations, but the United States Supreme Court has suggested some guidelines in a similar type of investigation. In Wyman v. James, the Court held that

warrantless visits to welfare recipients' homes do not violate the Fourth Amendment when:

- a. The purpose of the visit is for the welfare of the person visited.
- b. The visit is not aimed at criminal prosecution.
- c. The welfare recipient has had advance notice of the visit.
- d. The visit comports with department procedures that
 - .ensure privacy;
 - .prohibit forcible entry;
 - .prohibit use of false pretenses to gain entry, and
 - .prohibit visits after normal working hours.

4) What constitutes an abused or neglected child?

A child does not have to actually be threatened with physical harm to be abused or neglected. The North Carolina statutory definitions of the neglected juvenile and abused juvenile have withstood judicial scrutiny when challenged on the ground that they were unconstitutionally vague. The State Supreme Court cases In re McMillan, In re Interest of Campbell, and In re Huber define the areas of neglect of supervision and proper care.

5) On what evidence should an educator foresee or predict future child abuse?

By seeing children on a daily basis, a teacher and administrator have a special relationship with young children in their care. They have a unique opportunity to observe any abnormal external physical injuries and any abnormal behavior. The legal concern in this relationship is whether based on past experiences and observations in a particular

case, the educator should be held to foresee future "continued" child abuse.

6) What is the effect of the failure to report suspected child abuse?

Under the law of civil negligence, violation of a statutory duty, such as mandatory reporting of suspected child abuse and neglect, is negligence in itself. That means that if it can be proven that a person willfully or negligently failed to report known or suspected child abuse or neglect, he or she can be sued for the injuries and damages that occurred after the time when a report should have been made. This principle has recently been applied to child abuse and neglect cases Robinson v. Wical, M.D. et al., and Landeros v. Flood when reports of suspected abuse or neglect were not made. The case Beuning v. Waun served to show school systems the importance of reporting a case to authorities. The cases People v. Stritzinger, Dick v. Watanwan County and Roman v. Appleby raise questions about the educator's responsibility to report cases of child abuse and neglect and the protection from civil and criminal prosecution afforded by the law. In People v. Stritzinger, the court stated the need to protect children from abuse outweighs the value of the psychotherapist-patient privilege.

7) Should reporters (and non-reporters) of suspected child abuse have immunity from civil liability?

Many educators hesitate to report cases of abuse and neglect because they are afraid that parents will sue them

for defamation of character, invasion of privacy or violation of some civil right. All state statutes clearly state however that a report made in good faith is immune from civil or criminal liability.

B) What is the competency of the child witness?

A recurring problem in child abuse and neglect cases is where a child's testimony is sought. The ability of the child to testify is sometimes questioned. The test used in Federal courts to determine whether or not a child should be allowed to testify was articulated by the United States Supreme Court in the 1895 case of Wheeler v. United States. In that case, the Court held that a five year old boy would be allowed to testify in a murder trial.

The second question in Chapter I required research in each state's provisions in regard to child abuse and neglect as defined by the respective state's governing statutes. Research revealed each state has enacted child abuse and neglect laws. Chapter III contains nine tables that represent an analysis of each states' legislative enactment in the area of child abuse and neglect. Each state's provisions in fourteen areas are provided in Appendix A. The areas are:

(1) citation, (2) purpose clause, (3) reportable conditions, (4) definition of abuse, (5) definition of child, (6) nature of reporting, (7) who reports, (8) reporting procedure, (9) report to whom, (10) mandated actions, (11) immunity, (12) waiver of privilege, (13) provision of central registry, and

(14) penalty. While the applicable laws vary from state to state, these tables reveal the following relative to the various state child abuse and neglect statutes:

- I. All 50 states include a statutory provision for reportable conditions;
- II. All states except Texas have a child abuse definition;
- III. All states except Wyoming define the upper age limit for reportable children at age 18;
- IV. Thirteen states require the reporter to name the alleged perpetrator;
- V. All states except Georgia and Michigan require reports by "any other person"; all require reports by teachers and school personnel;
- VI. Thirty-two states require the report to be oral and written;
- VII. All states specify to whom the report is to be made; every state except Georgia further mandates some action by the agency to whom the report is made;
- VIII. All states have incorporated an immunity clause which protects the reporter; forty-five states have a penalty clause for failure to report; forty-one states require the establishment of a central registry;
- IX. Most states have some provision for the waiver of certain specified privileged or confidential information by the reporter; while no statutes specifically mention educators, waivers are granted to educators under the statutes of twenty states under the general provision waiving all other privileges (except that between attorney-client).

The third question listed in Chapter I concerns the Federal legislation that has influenced the treatment of child abuse reporting. The problems of child abuse were given the highest priority by medical, legal and social professional groups as a major, unsolved health problem of American children in the 1960's. In 1963, the United States Children's Bureau published a guide for child abuse

legislation, based on the new concept of reporting child abuse to a state central register of records.

In 1974, President Richard Nixon signed into law federal legislation, Public Law 93-247, the Child Abuse Prevention and Treatment Act, which established the United States National Center of Child Abuse and Neglect in Washington, D.C. The passage of this act further strengthened the states' efforts in developing prevention and treatment programs. The Federal Act's eligibility criteria for grants to states to help improve their child abuse and neglect services reflected the evolution toward more extensive and detailed child protective laws.

The fourth question posed in the introductory chapter considered the legal decisions rendered by Federal and state courts and the influence of case laws on reporting procedures in the public schools. Chapter IV listed selected court cases and the decisions which developed regarding child abuse and neglect. The cases were grouped into eight categories to illustrate the following legal issues:

1. Parans Patriae authority.
2. Family privacy.
3. Warrantless visits.
4. Proper care of child.
5. Reasonable preventive measure.
6. Reporting child abuse.
7. Immunity.
8. Competence of the child witness.

These cases represent how the courts have been involved in child abuse and neglect cases. Reporting procedures for school systems have been based on these landmark decisions.

The final guide question from Chapter I concerned identifying future trends in child abuse and neglect related to the public schools. The answer to this question, based on a review of the literature, legislative enactments and recent legislation, provides the framework for the conclusions and recommendations of this study.

CONCLUSIONS

There has been major progress in public schools, legislatures and the courts in protecting the abused and neglected child. With this growing trend in public awareness of the abused and neglected child, other significant patterns have developed in legislative changes in child abuse laws.

Based on judicial decisions and a review of the governing statutes, the following general conclusions can be made concerning the legal aspects of child abuse and neglect related to public education:

1. The categories of persons mandated to report has been broadened.
2. There is a movement toward expanding the concept of "abuse" to be reported, so as to include sexual abuse and emotional abuse.
3. Since the Federal Child Abuse Prevention and Treatment Act of 1974, there is an increase in the number of

states designating the state or county departments of social services as receiving agencies for child abuse reports.

4. Since the Federal Child Abuse Prevention and Treatment Act of 1974, there is increasing acceptance of the philosophy which favors the use of social work process to assist the abused child and a rejection of criminal prosecution of abusing parents as a routine approach.

5. Since the Federal Child Abuse Prevention and Treatment Act of 1974, there is an increase in the number of states mandating the establishment of central registries for reporting child abuse and neglect.

6. There is an increase in the number of states requiring ongoing public and professional education and training programs.

RECOMMENDATIONS

This study provides up-to-date information about the legal aspects and legislative actions regarding child abuse and neglect. It is not the intent of this study to provide definitive answers to questions concerning the constitutionality of specific child abuse and neglect procedures. Based on a review of the research, however, the following approaches to establishing and administering child abuse programs are recommended:

1. Financial and institutional support necessary to sustain adequate treatment and preventive services continues to be widely lacking. More federal, state, and local funds are needed to support child abuse programs.

2. Child protective workers are generally not provided the training and skills necessary to meet the important responsibilities assigned to them. Unmanageably large caseloads, worker burnout, and high job turnover exist in Child Protective Service Agencies. More trained case workers are needed to adequately handle the services needed.

3. Plans for crisis centers should be developed where families can voluntarily leave children under safe care temporarily and voluntarily.

4. Innocent people may be reported as abusing parents. Safeguards in the form of procedures for thorough and careful investigation and for expungement of erroneous records can minimize this danger.

5. There is emphasis on a non-criminal, non-punitive approach to child abuse through involvement of protective services as the primary treatment resource. Reporters must be made to feel that their report is the initial step in an effective process designed to help children and their families. More people, reluctant to involve themselves and others in a criminal procedure, would be willing to initiate a process to help children and their families in a program primarily designed for assistance.

6. Intensive public information programs directed not only at the professionals who have frequent contacts with children, but also at the general public are needed. There must be greater public awareness and understanding of the

nature of child abuse and of the duty to report under the law.

7. Responsibility for exploring and investigating the child abuse report, for gathering together all the pieces of information to learn what actually happened to the child, and why, must be assumed by the child protective service program in the county. The investigation should not be delegated to the reporter and the reporting role should be kept separate and distinct from the primary investigative one.

8. The report of abuse should serve only to initiate protective services on behalf of the child. The report need not be in writing but written medical opinion is advisable, if needed in a court proceeding.

9. Reports are made to the school principal, police, sheriff, prosecuting attorney, the Department of Health or the Department of Social Services. The designation of a single agency to receive reports would eliminate confusion. The responsibility for action on behalf of the neglected child will be more accountable and the actions taken will be more clearly defined.

10. Administrators need to know their state statute regarding child abuse and neglect. Principals need to have a staff development presentation on abuse and neglect identification and reporting, using outside agencies for programs. A specific section dealing with reporting needs to be added to the faculty handbook so clearcut procedures are followed.

11. A training program for the school staff needs to be established; it is important to alert the staff to signs of maltreatment but more important to provide guidelines for what to do once maltreatment is detected.

12. An attitude of administrative commitment to identify and report child abuse and neglect, along with consistent support when the staff makes efforts to provide protection for children, is important for a school principal.

RECOMMENDATIONS FOR FUTURE STUDY

1. There needs to be extensive research of the circumstances of life in abusing families. Causal theories of abuse need to be explored and analyzed. It is generally accepted that a high proportion of abusing parents were themselves abused as children, but it is also known that a large proportion of abused children do not grow up to become abusing parents. Understanding why some such children become abusers while others do not would provide enormous insight into the etiology of abuse.

2. A study is needed to obtain the knowledge level of classroom teachers regarding the characteristics of child abuse and neglect.

3. Study the reluctance of educators to report child abuse and neglect cases and the underlying reason.

4. Research the percentage of child abuse and neglect cases reported by educators compared to reports by other sources.

5. Study Child Protective Service Staffs, their frequent job turnover and the underlying reason.

Concluding Statement

While the existence of child abuse legislation is one indication of the presence and severity of the problem, legislation per se is not the answer. Child abuse is a highly complex problem and cannot be solved without the utilization of various resources in society, such as the courts, legislators, social services and community organizations. A multi-disciplinary approach to the problem would encourage cooperation among these resources towards preventing child abuse and towards assisting the abused or neglected child and the family, rather than primarily emphasizing criminal prosecution of alleged abusers.

Educators should be encouraged to become familiar with the applicable laws and procedures and with the responsibilities placed upon them. Only then can they assume an active role in identifying and reporting abused and neglected children without undue fear of lawsuits or reprisals.

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APPENDIX A

STATE
Statutory Compilation

Citation	Statutory Compilation; Title, chapter and inclusive selections of applicable acts; Dates of bound volumes and supplements.
Purpose Clause	Text of purpose clause or statement of legislative intent.
Reportable Conditions	Statutory language used to define conditions, suspicions, or beliefs which must be reported.
Definition of Abuse	Definition of "abuse" used in conjunction with mandatory reporting law.
Definition of Child	Definition of "child" used in conjunction with mandatory reporting law.
Nature of Report	"Mandatory"=persons listed must report. "Voluntary"=persons listed may report. "Accusatory"=person reporting must identify perpetrator of the abuse within contents of the report. "Nonaccusatory"=person reporting may identify perpetrator of the abuse, or statute does not specify required contents of report.
Who Reports	List of persons who must/may report.
Reporting Procedure	Summary of reporting procedures.
Report to Whom	Agency receiving report.
Mandated Actions	Summary of statutory language outlining actions the receiving agency must complete after receipt of a report.
Immunity	Statutory language concerning immunity from liability for making required reports.
Waiver of Privilege	Statutory language concerning applicability and waiver of privilege.
Central Registry	Statutory language establishing a central registry of reports.
Penalty	Penalty for failure to make required reports.

ALABAMA
Code of Alabama

Citation	<u>Code of Alabama</u> , Chapter 14, "Reporting of Child Abuse or Neglect." Sections 26-14-1 through 26-14-13, (1977 and 1984 Supplement).
Purpose Clause	26-14-2 (1977). "In order to protect children whose health and welfare may be adversely affected through abuse and neglect, the legislature hereby provides for the reporting of such cases to the appropriate authorities. It is the intent of the legislature that...protective services shall be made available in an effort to prevent further abuses and neglect, to safeguard and enforce the general welfare of such children, and to encourage cooperation among the states in dealing with the problem of child abuse."
Reportable Conditions	26-14-3 (1977). "...(persons) called upon to render aid or medical assistance to any child, when such child is known or suspected to be a victim of child abuse or neglect...."
Definition of Abuse	26-14-1 (1) (Supp. 1984). Harm or threatened harm to a child's health or welfare through nonaccidental physical or mental injury, sexual abuse, attempted sexual abuse, or attempted sexual exploitation.
Definition of Child	26-14-1 (3) (Supp. 1984). A person under the age of eighteen.
Nature of Report	26-14-5 (1977). Mandatory, Accusatory. 26-14-4 (1977). Voluntary.
Who Reports	26-14-3 (a) (1977). All hospitals, clinics, sanitariums, doctors, physicians, surgeons, medical examiners, coroners, dentists, osteopaths, optometrists, chiropractors, podiatrists, nurses, school teachers and officials, peace officers, law enforcement officials, pharmacists, social workers, day care workers or employees, mental health professionals or any other person. 26-14-4 (1977). Any person with "reasonable cause to suspect" child abuse or neglect.

Reporting Procedure	26-14-3 (a) (1977). Orally, by telephone or direct communication, followed by a written report.
Report to Whom	26-14-3 (a) (1977). A "duly constituted authority" as defined in 26-14-1.
Mandated Actions	26-14-7 (1977). Make a thorough investigation, written reports, and recommendations pursuant to instructions outlined.
Immunity	26-14-9 (1977). "Any person, firm, corporation or official participating in the making of a report...pursuant to this chapter...shall, in so doing, be immune from any liability, civil or criminal, that might otherwise be incurred or imposed."
Waiver of Privilege	26-14-10 (1977). "The doctrine of privileged communication, with the exception of the attorney-client privilege, shall not be a ground for excluding any evidence..."
Central Registry	26-14-8 (1977). "The state department of pensions and security shall establish a statewide central registry for reports of child abuse and neglect made pursuant to this chapter."
Penalty	26-14-13 (1977). Knowing failure to report is a misdemeanor punishable by a sentence of not more than six months imprisonment or a fine not to exceed \$500.

ALASKA
Alaska Statutes

Citation	Alaska Statutes, Chapter 17, "Child Protection," Sections 47.17.010 through 47.17.070 (1984).
Purpose Clause	47.17.010 (1984). "In order to protect children whose health and well-being may be adversely affected through the infliction, by other than accidental means, of harm through physical abuse or neglect or sexual abuse or sexual exploitation, the legislature requires the reporting of these cases by practitioners of the healing arts and others to the appropriate public authorities. It is the intent of the legislature that, as a result of these reports, protective services will be made available in an effort to prevent further harm to the child, to safeguard and enhance the general well-being of the children in this state, and to preserve family life whenever possible."
Reportable Conditions	47.17.020 (1984). "...cause to believe that a child has suffered harm as a result of abuse or neglect..."
Definition of Abuse	47.17.070 (1984). Physical injury or neglect, sexual abuse, sexual exploitation or maltreatment of a child by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened.
Definition of Child	47.17.070 (1984). A person under eighteen years of age.
Nature of Report	47.17.020 (a) (1984). Mandatory, Nonaccusatory. 47.17.020 (b) (1984). Voluntary.
Who Reports	47.17.020 (1984). Practitioners of the healing arts, school teachers and administrative staff members, social workers, peace officers, officers of the Department of Corrections, administrative officers of institutions, licensed day care providers and paid staff, and licensed foster care providers. 47.17.020 (1984). Any other person who has cause to believe a child's harm is a result of abuse or neglect.

Reporting Procedure	47.17.020 (a) (1984). Report the harm immediately.
Report to Whom	47.17.020 (a) and (c) (1984). The nearest office of the Department of Health and Social Services or, if Immediate action is necessary for the well-being of the child, to a peace officer.
Mandated Actions	47.17.025 (a) (1984). "A law enforcement agency shall immediately notify the department of the receipt of a report of harm to a child from abuse. Upon receipt from any source of a report of harm to a child from abuse, the department shall notify the Department of Law and investigate the report and, within 72 hours of the receipt of the report, shall provide a written report of its investigation of the harm to a child from abuse to the Department of Law for Review."
Immunity	47.17.050 (1984). "A person who, in good faith, makes a report under this chapter...is immune from any civil or criminal liability which might otherwise be incurred or imposed."
Waiver of Privilege	47.17.060 (1984). "Neither the physician-patient nor the husband-wife privilege is a ground for excluding evidence regarding a child's harm, or its cause...."
Central Registry	47.17.040 (a) (1984). "The department shall maintain a central registry of all investigation reports but not of the reports of harm."
Penalty	47.17.068 (1984). Willful or knowing failure or refusal to report harm as required in 47.17.020 is punishable as a class B misdemeanor.

ARIZONA
Arizona Revised Statutes Annotated

Citation	Arizona Revised Statutes Annotated, Title 8, "Children," Chapter 5, "Child Welfare and Placement," Article 3, "Protective Services," Sections 8-546 and 13-3620 (1984 Supplement).
Purpose Clause	None.
Reportable Conditions	13-3620 (A) (Supp. 1984). "...reasonable grounds to believe that a minor is or has been the victim of injury, sexual molestation, death, abuse or physical neglect which appears to have been inflicted...by other than accidental means or which is not explained by the available medical history as being accidental in nature or...reasonable grounds to believe there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment...."
Definition of Abuse	8-546 (A) (2) (Supp. 1984). "...infliction of physical injury, impairment of bodily function or disfigurement or the infliction of serious emotional damage... [including] inflicting or allowing sexual abuse..., sexual conduct..., sexual assault..., molestation..., commercial sexual exploitation..., sexual exploitation...or incest."
Definition of Child	8-546 (A) (3) (Supp. 1984). An individual under the age of eighteen.
Nature of Report	13-3620 (A) (Supp. 1984). Mandatory, Nonaccusatory.
Who Reports	13-3620 (A) (Supp. 1984). Any physician, hospital intern or resident, surgeon, dentist, osteopath, chiropractor, podiatrist, county medical examiner, nurse, psychologist, school personnel, social worker, peace officer, parent or counselor or any other person having responsibility for the care or treatment of children.

Reporting Procedure	13-3620 (A) (Supp. 1984). Immediately (Forthwith) by telephone or in person, followed by a written report.
Report to Whom	13-3620 (A) (Supp. 1984). To a municipal or county peace officer or to the protective services of the state department of economic security.
Mandated Actions	8-546.01 (C) (3) (Supp. 1984). "...immediately: (a) Notify the municipal or county law enforcement agency; and (b) Make a prompt and thorough investigation...."
Immunity	8-546.04 and 13-3620 (D) (Supp. 1984). Anyone participating in the making of reports or providing information under the provisions of these sections is immune from any civil or criminal liability by reason of those actions.
Waiver of Privilege	8-546.04 (B),(C) and 13-3620 (D) (Supp. 1984). "...any privilege except the attorney-client privilege, provided for by professions such as the practice of social work or nursing covered by law or a code of ethics regarding practitioner-client confidences, both as they relate to the competency of the witness and to the exclusion of confidential communications, shall not pertain to in any civil or criminal litigation in which a child's neglect, dependency, abuse, or abandonment is an issue nor in any judicial proceeding resulting from a report submitted pursuant to this section."
Central Registry	8-546.03 (Supp. 1984). "The department of economic security shall maintain a central registry of reports, investigations and evaluations made under this article. The registry shall contain the information furnished by protective service workers throughout the state.
Penalty	13-3620 (F) (Supp. 1984). "A person who violates any provision of this section is guilty of a class 2 misdemeanor."

ARKANSAS
Arkansas Statutes Annotated

Citation	Arkansas Statutes Annotated, Chapter 8, "Reports of Injuries to Children," Sections 42-807 through 42-818 (1977 and 1983 Supplement).
Purpose Clause	None.
Reportable Conditions	42-808 (1977). "...reasonable cause to suspect that a child has been subjected to abuse, sexual abuse or neglect or observes the child being subjected to conditions or circumstances which would reasonably result in abuse...."
Definition of Abuse	42-807 (b) (Supp. 1983). "...any physical injury, mental injury, sexual abuse, or sexual exploitation inflicted on a child other than by accidental means, or an injury which is at variance with the history given. The term encompasses both acts and omissions."
Definition of Child	42-807 (a) (Supp. 1983). Any person under eighteen years of age.
Nature of Report	42-812 (b) (1977). Mandatory, Accusatory.
Who Reports	42-808 (1977). Any physician, surgeon, coroner, dentist, osteopath, resident intern, registered nurse, hospital personnel (engaged in admission, examination, care or treatment of persons), teacher, school official, social service worker, day care center worker or any other child or foster care worker, mental health professional, peace officer or law enforcement officer. 42-808 (1977). "Any other person may make a report if such person has reasonable cause to suspect a child has been abused or neglected."
Reporting Procedure	42-812 (a), (c) (Supp. 1983). Immediately by telephone and followed by a written report within 48 hours if requested by the receiving agency. Copies shall immediately be made available to the local prosecutor's office and to the central registry.

Report to Whom 42-808 (1977).
The County or State Social Services Division,
Department of Human Services.

Mandated Actions 42-813 (a) (1977).
"The department shall make a thorough investigation promptly upon receiving either the oral or written report. The primary purpose of such an investigation shall be the protection of the child."

Immunity 42-814 (1977).
"Any person, official or institution participating in good faith in the making of a report...shall have immunity from any liability, civil or criminal, that might otherwise result by reason of such actions. For the purpose of any proceedings, civil or criminal, the good faith of any person required to report cases of child abuse or neglect shall be presumed."

Waiver of Privilege 42-815 (Supp. 1983).
"...any privilege between husband and wife or between any professional person, except lawyer and client, including but not limited to physicians, ministers, counselors, hospitals, clinics, day care centers, and schools and their clients, shall not constitute grounds for excluding evidence at any proceeding regarding child abuse, sexual abuse, or neglect of a child or the cause thereof."

Central Registry 42-818 (A) (1) (1977 and Supp. 1983).
"There shall be established within the Family Service Division of the State Welfare Department, a statewide central registry for child abuse, sexual abuse and neglect...."

Penalty 42-816 (1977).
"(a) Any person, official or institution required ...to report a case of suspected child abuse, sexual abuse or neglect, who willfully fails to do so shall be subject to a fine of one hundred dollars (\$100) and up to five (5) days in jail.
(b) Any person, official or institution required by this Act to report a case of suspected child abuse, sexual abuse or neglect, and who willfully fails to do so, shall be civilly liable [for damages] proximately caused by such failure."

CALIFORNIA
West's Annotated California Code

Citation	West's Annotated California Codes, Penal Code, Article 2.5, "Child Abuse Reporting," Sections 11166 through 11172, and 18950 (1982 and 1985 Supplement).
Purpose Clause	18950 (Supp. 1985). "The Legislature finds and declares that child abuse is a growing concern in this state, and that current methods of coping with child abuse problems are resulting in family breakups that are both expensive and and nonproductive to the state. It is the intent of the Legislature to provide for the establishment of pilot projects or technical assistance...to public and private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification and treatment of child abuse and neglect."
Reportable Conditions	11166 (a), (b), and (c) (Supp. 1985). (a) "...knowledge of or [observing] a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse...." (b) "...knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or his or her emotional well-being is endangered in any other way...." (c) "...knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct...."
Definition of Abuse	11165 (b) through (g) (Supp. 1985). Physical injury inflicted by other than accidental means on a child by another person, sexual abuse, assault, or exploitation of a child, any willful cruelty, unjustifiable punishment or corporal punishment or injury, or neglect of a child or abuse in out-of-home care.
Definition of Child	11165 (a) (Supp. 1985). A person under the age of 18 years.

Nature of Report 11166 (a), (b), (c) and 11167 (a) (Supp. 1985).
Mandatory, Nonaccusatory.
11166 (d) (Supp. 1985).
Voluntary.

Who Reports 11166 (a), (b), (c), and (d) (Supp. 1985).
(a) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency.
(b) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency.
(c) Any commercial film and photographic print processor.
(d) Any other person who has knowledge of or observes a child whom he or she reasonably suspects has been a victim of child abuse.

Reporting Procedure 11166 (a) (Supp. 1985).
Immediately or as soon as practically possible by telephone, followed by a written report within 36 hours.

Report to Whom 11166 (a) (Supp. 1985).
A "child protective agency" including a police or sheriff's department, county probation department, or a county welfare department.

Mandated Actions 11166 (g) (Supp. 1985).
Immediately or as soon as practically possible, report by telephone to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility to investigate, and to the district attorney's office, followed by a written report, if required, within 36 hours.

Immunity 11172 (a) (Supp. 1985).
"No child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and that the person knew the report was false...."

**Waiver of
Privilege**

11171 (a) (1982).

"Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this article...."

**Central
Registry**

11170 (a) (Supp. 1985).

"The Department of Justice shall maintain an index of all preliminary reports of child abuse...."

Penalty

11172 (d) (Supp. 1985).

"Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars (\$1000) or by both."

COLORADO
Colorado Revised Statutes Annotated

Citation	Colorado Revised Statutes Annotated, Title 19, Article 10, "Child Abuse," Sections 19-10-101 through 19-10-115 (1978 and 1984 Supplement).
Purpose Clause	19-10-102 (1978). "The general assembly hereby declares that the complete reporting of child abuse is a matter of public concern and that in enacting this article it is the intent of the general assembly to protect the best interests of children of this state and to offer protective services in order to prevent any further harm to a child suffering from abuse...."
Reportable Conditions	19-10-104 (1) (1978). "...reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions which would reasonably result in abuse or neglect...."
Definition of Abuse	19-10-103 (1) (1978 and Supp. 1984). "...an act or omission in one of the following categories which threatens the health or welfare of a child: (I) Any case in which a child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or circumstances indicate that such condition or death may not be the product of an accidental occurrence; (II) Any case in which a child is subjected to sexual assault or molestation, sexual exploitation, or prostitution; (III) Any case in which the child's parents, legal guardians, or custodians fail to take the same actions to provide adequate food, clothing shelter, or supervision that a prudent parent would take."
Definition of Child	19-1-103 (3) (1978). A person under eighteen years of age.

Nature of Report 19-10-108 (1978).
Mandatory, Accusatory.
19-10-104 (3) (1978).
Voluntary.

Who Reports 19-10-104 (1978).
Physician or surgeon, child health associate, medical examiner or coroner, dentist, osteopath, optometrist, chiropractor, chiropodist or podiatrist, registered nurse or licensed practical nurse, hospital personnel engaged in the admission, care, or treatment of patients, Christian Science practitioner, school official or employee, social worker or worker in a family care home or child care center, and mental health professionals.
19-10-104 (3) (1978).
"...any other person may report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in child abuse or neglect...."

Reporting Procedure 19-10-108 (1) (Supp. 1984).
Immediately, followed promptly by a written report.

Report to Whom 19-10-108 (1) (Supp. 1984).
To the county department of social services or the local law enforcement agency.

Mandated Actions 19-10-109 (1) (Supp. 1984).
"The county department shall make a thorough investigation immediately upon receipt of any report of known or suspected child abuse or neglect. The immediate concern of such investigation shall be the protection of the child."

Immunity 19-10-110 (Supp. 1984).
"Any person participating in good faith in the making of a report or in a judicial proceeding held pursuant to this title...shall be immune from any liability, civil or criminal, or termination of employment that otherwise might result by reason of such reporting...."

**Waiver of
Privilege**

19-10-112 (Supp. 1984).

"The privileged communication between patient and physician, between patient and registered professional nurse, and between husband and wife shall not be a ground for excluding evidence in any judicial proceeding resulting from a report pursuant to this article."

**Central
Registry**

19-10-114 (1) (1978).

"There shall be established a state central registry of child protection in the state department for the purpose of maintaining a registry of information concerning each case of child abuse reported under this article. This shall be the only central registry in this state."

Penalty

19-10-104 (.4) (Supp. 1984).

Any person who willfully fails to report commits a class 3 misdemeanor.

CONNECTICUT
Connecticut General Statutes Annotated

Citation	Connecticut General Statutes Annotated, Title 17, Chapter 301, "Child Welfare," Section 17-38a through 17-38c (1985 Supplement).
Purpose Clause	17-38a (a) (Supp. 1985). "The public policy of this state is: To protect children whose health and welfare may be adversely affected through injury and neglect; to strengthen the family and to make the home safe for children by enhancing the parental capacity for good child care; to provide a temporary or permanent nurturing and safe environment for children when necessary; and for these purposes to require the reporting of suspected child abuse, investigation of such reports by a social agency, and provision of services, where needed, to such child and family."
Reportable Conditions	17-38a (b) (Supp. 1985). "...reasonable cause to suspect or believe that any child under the age of eighteen has had physical injury or injuries inflicted upon him by a person responsible for such child's or youth's health, welfare or care, or by a person given access to such child by such responsible person...."
Definition of Abuse	17-38a (b) (Supp. 1985). Physical injury or injuries inflicted other than by accidental means by a person responsible for the child's health, welfare or care, or by a person given access to the child by such responsible person, injuries at variance with the history given for them, or conditions which result from maltreatment including but not limited to malnutrition, sexual abuse, sexual exploitation, deprivation of necessities, emotional maltreatment, cruel punishment, or neglect.
Definition of Child	17-38a (b) (Supp. 1985). Any child under the age of eighteen
Nature of Report	17-38a (b) and (c) (Supp. 1985). Mandatory, Nonaccusatory. 17-38c (Supp. 1985). Mandatory.

Who Reports	<p>17-38a (b) (Supp. 1985). Physician, surgeon, resident, intern, registered nurse, licensed practical nurse, medical examiner, dentist, psychologist, school teacher, school principal, school guidance counselor, social worker, police officer, clergyman, osteopath, chiropractor, optometrist, podiatrist, mental health professional or any person paid for caring for children in a day care center.</p> <p>17-38c (Supp. 1985). Any person other than those enumerated having reasonable cause to suspect or believe that any child is in danger of being abused or neglected, or has been so abused or neglected.</p>
Reporting Procedure	<p>17-38a (c) (Supp. 1985). Immediate oral report to be followed within 72 hours by a written report.</p>
Report to Whom	<p>17-38a (c) (Supp. 1985). To the state commissioner of children and youth services, the local police department, or the state police.</p>
Mandated Actions	<p>17-38a (e) (Supp. 1985). "Agencies or institutions receiving reports of child abuse...shall, within twenty-four hours, transfer such information to the commissioner of children and youth services or his agent, who shall cause the report to be investigated immediately."</p>
Immunity	<p>17-38a (h) (Supp. 1985). "Any person, institution or agency which, in good faith, makes the report required by this section shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed...."</p>
Waiver of Privilege	<p>17-38a (f) (3) (Supp. 1985). "[T]he privilege against the disclosure of communications between husband and wife shall be inapplicable...."</p>
Central Registry	<p>17-38a (g) (Supp. 1985). "The commissioner of children and youth services shall maintain a registry of the reports received...."</p>
Penalty	<p>17-38a (b) (Supp. 1985). "Any person required to report under the provisions of this section who fails to make such report shall be fined not more than five hundred dollars."</p>

DELAWARE
Delaware Code Annotated

Citation	Delaware Code Annotated, Title 16, Chapter 9, "Abuse of Children," Sections 901 through 909 (1983).
Purpose Clause	901 (1983). "It is the purpose of this chapter to provide for comprehensive protective services for abused and neglected children found in the State by requiring that reports of such abused and neglected children be made to the appropriate authorities in an effort to prevent further abuse or neglect and to assist those children and their parents or those persons legally responsible for them, in their home, to aid in overcoming the problems leading to abuse and neglect, thereby strengthening parental care and supervision and enhancing such children's welfare and preserving the family life whenever feasible."
Reportable Conditions	903 (1983). "...knows or reasonably suspects child abuse or neglect...."
Definition of Abuse	902 (1983). Physical injury by other than accidental means, injury resulting in a mental or emotional condition which is a result of abuse or neglect, negligent treatment, sexual abuse, maltreatment, mistreatment, nontreatment, exploitation or abandonment.
Definition of Child	902 (1983). A child under the age of 18.
Nature of Report	903 (1983). Mandatory, Nonaccusatory.
Who Reports	903 (1983). Any physician or other person licensed in the healing arts, osteopathy, or dentistry, any intern, resident, nurse, school employee, social worker, psychologist, medical examiner or any other person.
Reporting Procedure	904 (1983). Immediate oral report by telephone or otherwise, followed by a written report if requested.

- Report to Whom** 904 (1983).
To the Division of Child Protective Services of the Department of Services for Children, Youth and Their Families.
- Mandated Actions** 905 (a) (1983).
Immediately investigate and take necessary action and shall offer protective services toward preventing further child abuse or neglect.
- Immunity** 906 (1983).
"Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise exist...."
- Waiver of Privilege** 908 (1983).
"The physician-patient privilege, husband-wife privilege or any privilege except the attorney-client privilege, provided for by professions such as social work or nursing, covered by law or a code of ethics regarding practitioner-client confidences...shall not pertain in any civil or criminal litigation in which a person's neglect, abuse, dependency, exploitation or abandonment is in issue...."
- Central Registry** 905 (b)(1983).
"The Division shall establish in each county a registry of child protection for the purpose of maintaining a registry of information concerning each case of abuse or neglect required to be reported...."
- Penalty** 909 (1983).
"Whoever knowingly violates this chapter shall be fined not more than \$100 or shall be imprisoned not more than 15 days or both."

FLORIDA
Florida Statutes Annotated

Citation	Florida Statutes Annotated, Title XVIII, Chapter 415, "Protection from Abuse, Neglect and Exploitation," Sections 415.101 through 415.514 (1985 Supplement).
Purpose Clause	415.501 (Supp. 1985). "The incident of known child abuse and child neglect has increased rapidly over the past 5 years. The impact that abuse or neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse shall be a priority of the state. To further this end, it is the intent of the Legislature that a comprehensive approach for the prevention of abuse and neglect of children be developed for the state and that this planned, comprehensive approach be used as a basis for funding." 415.502 (Supp. 1985). "The intent of ss. 415.502-415.514 is to provide for comprehensive protective services for abused or neglected children found in the state by requiring that reports of each abused or neglected child be made...in an effort to prevent further harm to the child and any other children living in the home and to preserve the family life of the parents and children, to the maximum extent possible, by enhancing the parental capacity for adequate child care."
Reportable Conditions	415.504 (1) (Supp. 1985). "...knows, or has reasonable cause to suspect, that a child is an abused or neglected child...."
Definition of Abuse	415.503 (Supp. 1985). Harm or threatened harm to a child's physical or mental health or welfare by acts or omissions of the parent or other person responsible for the child's welfare including, but not limited to, physical or mental injury, excessive corporal punishment, sexual battery or abuse, exploitation, abandonment, failure to provide adequate food, clothing, shelter or health care, or failure to provide supervision.
Definition of Child	415.503 (2) (Supp. 1985). Any person under the age of 18 years.

Nature of Report	415.504 (1) (Supp. 1985). Mandatory, Nonaccusatory.
Who Reports	415.504 (1) (Supp. 1985). Any person including, but not limited to, any physician, osteopath, medical examiner, chiropractor, nurse, hospital personnel engaged in admission, examination, care, or treatment of persons, mental health professional, school teacher or other official or personnel, social worker, day care center worker, other professional child care, foster care, residential, or institutional worker, or law enforcement officer.
Reporting Procedure	415.504 (2) (Supp. 1985). Immediately on the statewide tollfree telephone number or directly to the local office of the department responsible for the investigation. Reports made by persons in enumerated occupations must confirm the report in writing within 48 hours of the initial report.
Report to Whom	415.504 (2) (a) (Supp. 1985). To the abuse registry of the Department of Health and Rehabilitative Services or to the department directly responsible for the investigation.
Mandated Actions	415.504 (4) (b) (Supp. 1985). The abuse registry shall immediately notify the local office of the department with respect to the report, any previous report concerning a subject of the present report, or any other pertinent information that is relevant.
Immunity	415.511 (Supp. 1985). "Any person, official, or institution participating in good faith in any act required by ss. 415.502-415.514 shall be immune from any civil or criminal liability which might otherwise result by reason of such action."
Waiver of Privilege	415.512 (Supp. 1985). "The privileged quality of communication between husband and wife and between any professional person and his patient or client, and any other privileged communication except that between attorney and client...shall not apply to any situation involving known or suspected child abuse or neglect...."

**Central
Registry**

415.504 (a) (Supp. 1985).

"The department shall establish and maintain a central abuse registry which shall receive reports made pursuant to this section in writing or through a single statewide tollfree telephone number....The abuse registry shall be operated in such a manner as to enable the department to:

1. Immediately identify and locate prior reports or cases of child abuse or neglect.
2. Regularly evaluate the effectiveness of the ...program...."

Penalty

415.513 (1) (Supp. 1985).

Knowing and willful failure to report, or knowing and willful prevention of another's report is a second degree misdemeanor.

GEORGIA
Code of Georgia Annotated

Citation	Code of Georgia Annotated, Title 19, Chapter 7, Article 1, Section 19-7-5 (1982).
Purpose Clause	19-7-5 (a) (1982). "The purpose of this Code section is to provide for the protection of children whose health and welfare are adversely affected and further threatened by the conduct of those responsible for their care and protection. This is often manifest by the infliction by other than accidental means of physical injury requiring the attention of a physician. It is intended that the mandatory reporting of such cases will cause the protective services of the state to be brought to bear on the situation in an effort to prevent further abuses, to protect and enhance the welfare of these children, and to preserve family life wherever possible...."
Reportable Conditions	19-7-5 (b) (1982). Reasonable cause to believe that a child under the age of 18 has had physical injury or injuries inflicted upon him by a parent or caretaker by other than accidental means, has been neglected or exploited, or has been sexually assaulted or exploited.
Definition of Abuse	19-7-5 (b) (1982). Physical injury or injury inflicted by a parent or caretaker by other than accidental means, neglect, exploitation, sexual assault or sexual exploitation.
Definition of Child	19-7-5 (b) (1982). A child under the age of 18.
Nature of Report	19-7-5 (c) (1982). Mandatory, Nonaccusatory.
Who Reports	19-7-5 (b) (1982). Any physician, osteopath, intern, resident, all other hospital or medical personnel, dentist, psychologist, podiatrist, nursing personnel, social work personnel, schoolteachers and school administrators, school guidance counselors, child-care personnel, day care personnel, or law enforcement personnel.

Reporting Procedure	19-7-5 (c) (1982). Oral report made as soon as possible by telephone or otherwise followed by a written report, if requested.
Report to Whom	19-7-5 (c) (1982). To a child welfare agency providing protective services, or to an appropriate police authority or district attorney.
Mandated Actions	None.
Immunity	19-7-5 (d) (1982). "Any person or persons, partnership, firm, corporation, association, hospital, or other entity participating in the making of a report or causing a report to be made...pursuant to this Code section...shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, providing such participation...is made in good faith...."
Waiver of Privilege	19-10-1 (b) (1982). "...The husband and wife shall be competent witnesses in such cases to testify for or against the other...."
Central Registry	None.
Penalty	19-7-5 (e) (1982). Knowing and willful failure to report a case of suspected child abuse is a misdemeanor.

HAWAII
Hawaii Revised Statutes

Citation Hawaii Revised Statutes, Title 20, Chapter 350, "Child Abuse," Sections 350-1 through 350-7 (1976 and 1984 Supplement).

Purpose Clause None.

Reportable Conditions 350-1.1 (Supp. 1984).
"...[knowing] or having reason to believe that a child has been abused or neglected or is threatened with abuse or neglect...."

Definition of Abuse 350-1 (1) (Supp. 1984).
Physical injury, psychological abuse and neglect, sexual abuse, negligent treatment, or maltreatment by a parent, legal guardian, or person responsible for the child's welfare.

Definition of Child 350-1 (1) (Supp. 1984).
A child under eighteen years of age.

Nature of Report 350-1.1 (e) (Supp. 1984).
Mandatory, Nonaccusatory.
350-1.1 (d) (Supp. 1984).
Voluntary.

Who Reports 350-1.1 (a) (Supp. 1984).
While in the performance of their professional or official duties, any licensed or registered professional of the healing arts or health-related professionals who examine, treat, or provide other specialized services including, but not limited to dentists, nurses, or pharmacists; employees or officers of any public or private school; employees or officials of any public or private agency or institution providing social, medical, hospital, or mental health services; employees or officers of law enforcement agencies, courts, correctional institutions, parole and probation offices; employees or officers of any licensed day care center, foster care home, group child care center, or similar institution; medical examiners or coroners.
350-1.1 (c) and (d) (Supp. 1984).
Those enumerated in (a) while acting in their private or nonprofessional capacity and any other person with reason to believe a minor has been abused or neglected or is threatened with abuse or neglect may report.

Reporting Procedure	350-1.1 (a) and (e) (Supp. 1984). Orally, followed as soon thereafter as possible by a written report.
Report to Whom	350-1.1 (a) (Supp. 1984). To the department of social services and housing or to the police department.
Mandated Actions	350-2 (1976). Immediately take necessary action toward preventing further abuses, safeguarding and enhancing the welfare of such minor, and preserving family life wherever possible.
Immunity	350-3 (1976). "Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such report...."
Waiver of Privilege	350-5 (1976). "Neither the doctor-patient privilege nor the husband-wife privilege shall be ground for excluding evidence regarding a minor's injuries, or the cause thereof, in any judicial proceeding resulting from a report pursuant to this chapter."
Central Registry	350-2 (1976). "...The department shall maintain a central registry of reported cases and may adopt such rules and regulations as may be necessary in carrying out this section."
Penalty	350-7 (Supp. 1984). "Any person subject to section 350-1.1 (a) who knowingly fails to report an incident which the person has reason to believe involves child abuse or neglect as required by this chapter or willfully prevents another person from reporting such an incident pursuant to this chapter shall be guilty of a petty misdemeanor."

IDAHO
Idaho Code

Citation	Idaho Code, Title 16, Chapter 16, "Child Protective Act," Sections 16-1601 through 16-1629 (1985 Supplement).
Purpose Clause	16-1601 (Supp. 1985). "The policy of the state of Idaho is hereby declared to be the establishment of a legal framework conducive to the judicial processing of child abuse, abandonment and neglect cases, and the protection of children whose life, health or welfare is endangered....This chapter seeks to coordinate efforts by state and local agencies, in cooperation with private agencies and organizations, citizen's groups, and concerned individuals, to: <ol style="list-style-type: none"> (1) preserve the privacy and unity of the family whenever possible; (2) take such actions as may be necessary and feasible to prevent the abuse, neglect or abandonment of children."
Reportable Conditions	16-1619 (Supp. 1985). "...having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, abandonment or neglect...."
Definition of Abuse	16-1602 (a) (Supp. 1985). "...any case in which a child has been the victim of: <ol style="list-style-type: none"> (1) Conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence; or (2) Sexual conduct, including rape, molestation, incest, prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child."

Definition of Child	16-1602 (e) (Supp. 1985). An individual who is under the age of eighteen (18) years.
Nature of Report	16-1619 (a) (Supp. 1985). Mandatory, Nonaccusatory.
Who Reports	16-1619 (a) (Supp. 1985). Any physician, resident, intern, nurse, coroner, school teacher, day care personnel, social worker, or other person.
Reporting Procedure	16-1619 (a) (Supp. 1985). Within twenty-four hours.
Report to Whom	16-1619 (a) (Supp. 1985). To the proper law enforcement agency or to the department of health and welfare.
Mandated Actions	16-1625 (Supp. 1985). Cause such investigation to be made as is appropriate in accordance with this chapter.
Immunity	16-1620 (Supp. 1985). "Any person who has reason to believe that a child has been abused, abandoned or neglected and, acting upon that belief, makes a report of abuse, abandonment or neglect as required in section 16-1619...shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed....Any person who reports in bad faith or with malice shall not be protected by this section."
Waiver of Privilege	16-1620 (Supp. 1985). "...Any privilege between husband and wife, or between any professional person except the lawyer-client privilege, including but not limited to physicians, ministers, counselors, hospitals, clinics, day care centers and schools and their clients shall not be grounds for excluding evidence at any proceeding regarding the abuse, abandonment or neglect of the child or the cause thereof."
Central Registry	16-1623 (c) (Supp. 1985). "The department shall be required to maintain a central registry for the reporting of child neglect, abuse and abandonment information."
Penalty	16-1619 (b) (Supp. 1985). "Failure to report as required in this section shall be a misdemeanor."

**Central
Registry**

2057.7 (Supp. 1985).

There shall be a central register of all cases of suspected child abuse or neglect reported maintained by the Department. It shall be operated in such a manner as to enable the Department to: (1) immediately identify and locate prior reports or cases of child abuse or neglect; (2) continuously monitor the current status of all cases of child abuse or neglect being provided services; and (3) regularly evaluate the effectiveness of existing laws and programs.

Penalty

None.

ILLINOIS
Smith-Hurd Illinois Annotated Statutes

Citation	Smith-Hurd Illinois Annotated Statutes, Chapter 23, "Abused and Neglected Child Reporting Act," Sections 2051 through 2061.7 (1985 Supplement).
Purpose Clause	2052 (Supp. 1985). "The Illinois Department of Children and Family Services shall, upon receiving reports made under this Act, protect the best interests of the child, offer protective services in order to prevent any further harm to the child and to other children in the family, stabilize the home environment and preserve family life whenever possible...."
Reportable Conditions	2054 (Supp. 1985). "...having reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a neglected child...."
Definition of Abuse	2053 (Supp. 1985). A child whose parent or immediate family member, or any person responsible for the child's welfare or any individual residing in the same home as the child, or a paramour of the child's parent inflicts, causes, allows, or creates a substantial risk of the infliction of physical injury by other than accidental means causing death, disfigurement, or impairment, commits or allows the commission of a sex offense against the child, commits or allows to be committed acts of torture on the child, inflicts excessive corporal punishment, or neglects the child's well-being by failing to provide adequate food, clothing, shelter, medical care, support, or education.
Definition of Child	2053 (Supp. 1985). Any person under the age of 18 years.
Nature of Report	2058 (Supp. 1985). Mandatory, Nonaccusatory. 2054 (Supp. 1985). Voluntary.
Who Reports	2054 (Supp. 1985). Any physician, hospital, hospital administrator and personnel engaged in examination, care and treatment of persons, surgeon, dentist, osteopath, chiropractor, podiatrist, Christian Science

practitioner, coroner, medical examiner, school personnel, truant officer, social worker, social services administrator, registered nurse, licensed practical nurse, director or staff assistant of a nursery school or a child day care center, law enforcement officer, registered psychologist, or field personnel of the Illinois Department of Public Aid or the Department of Health, Department of Mental Health and Developmental Disabilities, Department of Corrections, probation officer, or any other child care or foster care worker.
2054 (Supp. 1985).

"In addition to the above persons required to report suspected cases of abused or neglected children, any other person may make a report if such person has reasonable cause to believe a child may be an abused child or a neglected child."

**Reporting
Procedure**

2057 (Supp. 1985).
Immediately by telephone on the statewide toll-free number, in person, or by telephone through the nearest Department office, followed by written confirmation within 48 hours.

**Report to
Whom**

2054 (Supp. 1985).
To the Department of Children and Family Services.

**Mandated
Actions**

2057.4 (Supp. 1985).
Investigation shall commence within 24 hours of receipt of the report unless it appears that the immediate safety and well-being of the child is endangered, that the family might flee, the child disappear, or that the facts otherwise warrant an immediate investigation.

Immunity

2059 (Supp. 1985).
"Any person, institution or agency, under this Act, participating in good faith in the making of a report, or in the investigation of such a report...shall have immunity from any liability, civil, criminal, or that otherwise might result by reason of such actions. For the purpose of any proceedings...the good faith of any persons required to report, or permitted to report cases of suspected child abuse or neglect under this Act, shall be presumed."

**Waiver of
Privilege**

2054 (Supp. 1985).
"...The privileged quality of communication between any professional person required to report and his patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by this Act."

INDIANA

Burns Indiana Statutes Annotated Code Edition

Citation	Burns Indiana Statutes Annotated Code Edition, Title 31, Article 6, Chapter 11, "Child Abuse," Sections 31-6-11-1 through 31-6-11-22 (1980 and 1985 Supplement).
Purpose Clause	31-6-11-1 (1980). "It is the purpose of this chapter to encourage effective reporting of suspected or known incidents of child abuse or neglect, to provide in each county an effective child protection service to quickly investigate reports of child abuse or neglect, to provide protection for such a child from further abuse or neglect, and to provide rehabilitative services for such a child and his parents, or custodian."
Reportable Conditions	31-6-11-3 (1980). "...reason to believe that a child is a victim of child abuse or neglect..."
Definition of Abuse	31-6-11-2 (Supp. 1985). Impairing or seriously endangering the child's physical or mental condition as a result of the inability, refusal or neglect of his parent, guardian or custodian to supply the child with necessary food, clothing, medical care, education, or supervision; seriously endangering the child's physical or mental health due to injury by act or omission of his parent, guardian, or custodian; committing on the child, or allowing the child to commit a sex offense or an obscene performance.
Definition of Child	31-6-11-2 (Supp. 1985). A person under eighteen years of age, or a person eighteen, nineteen, or twenty years of age who has been adjudicated a child in need of services before his eighteenth birthday.
Nature of Report	31-6-11-3 and 31-6-11-4 (1980). Mandatory, Nonaccusatory.
Who Reports	31-6-11-3 (a) (1980). Any individual who has reason to believe that a child is a victim of child abuse.
Reporting Procedure	31-6-11-4 (1980). Immediate oral report.

**Report to
Whom**

31-6-11-4 (1980).
To the local child protection service or law enforcement agency.

**Mandated
Actions**

31-6-11-11 (Supp. 1985).
Initiate an appropriately thorough child protection investigation on every report, regardless of how it is received. Where the report alleges child abuse, the investigation shall be initiated within twenty-four hours of receipt of the report. Where the report alleges child neglect, the investigation shall be initiated within a reasonably prompt time. If the immediate safety or well-being of the child appears to be endangered or the facts otherwise warrant, the investigation shall be initiated immediately.

Immunity

31-6-11-7 (Supp. 1985).
"A person, other than a person accused of child abuse or neglect, who:
(1) Makes or causes to be made a report of a child who may be the victim of child abuse or neglect;
(2) Is a health care provider and detains a child for purposes of causing photographs, X-rays, or a physical medical examination to be made...;
(3) Makes any other report of a child who may be a victim of child abuse and neglect; or
(4) Participates in any judicial proceedings resulting from a report that a child may be a victim of child abuse or neglect, or relating to the subject matter of such report;
is immune from any civil or criminal liability that might otherwise be imposed because of such actions. However, immunity does not attach for any person who has acted maliciously or in bad faith. A person making a report...is presumed to have acted in good faith."

**Waiver of
Privilege**

31-6-11-8 (Supp. 1985).
"The privileged communication between a husband and wife, or between a health care provider and his patient, is not a ground for:
(1) Excluding evidence in any judicial proceeding resulting from a report of a child who may be a victim of child abuse or neglect, or relating to the subject matter of such a report; or
(2) Failing to report as required by this chapter."

**Central
Registry**

None.

Penalty

31-6-11-20 (1980).

"(a) A person who knowingly fails to make a report required by section 3(a) of this chapter commits a class B misdemeanor.

(b) A person who knowingly fails to make a report required by section 3(b) of this chapter commits a class B misdemeanor. This penalty is in addition to the penalty imposed in (a)."

IOWA
Iowa Code Annotated (West)

Citation	Iowa Code Annotated (West), Title XI, Chapter 232, Part 2, "Child Abuse Reporting, Investigation and Rehabilitation," Sections 232.67 through 232.77 (1985).
Purpose Clause	232.67 (1985). "Children in this state are in urgent need of protection from abuse. It is the purpose and policy of this part of division III to provide the greatest possible protection to victims or potential victims of abuse through encouraging the increased reporting of suspected cases of such abuse, insuring the thorough and prompt investigation of these reports, and providing rehabilitative services, where appropriate and whenever possible to abused children and their families which will stabilize the home environment so that the family can remain intact without further danger to the child."
Reportable Conditions	232.69 (1985). Reasonable belief that a child has suffered abuse which arises in the course of the reporter's employment or professional duties.
Definition of Abuse	232.68 (2) (1985). Harm or threatened harm through any nonaccidental injury, injury that is at variance with the history given of it, the commission of any sexual offense against the child, or allowing, permitting, or encouraging the child to engage in prostitution as a result of acts or omissions of the person responsible for the care of the child, or failure to provide adequate food, shelter, clothing or other care necessary for the child's welfare when financially able to do so.
Definition of Child	232.68 (1985). Any person under the age of eighteen years.
Nature of Report	232.69 and 232.70 (5) (1985). Mandatory, Nonaccusatory. 232.69 (1985). Voluntary.

- Who Reports** 232.69 (1) (1985).
 "Every health practitioner....self-employed social worker, every social worker under the jurisdiction of the department of human services, any social worker employed by a public or private agency or institution, public or private health care facility..., certified psychologist, certified school employee, employee or operator of a licensed child care center or registered group day care home or registered family day care home, member of the staff of a mental health center, or peace officer..."
- 232.69 (2) (1985).
 "Any other person who believes that a child has been abused may make a report as provided in section 232.70."
- Reporting Procedure** 232.70 (1) through (3) (1985).
 "(1) Each report made by a mandatory reporter... shall be made both orally and in writing. Each report made by a permissive reporter...may be oral, written, or both.
 (2) The oral report shall be made by telephone or otherwise to the department of human services. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency.
 (3) The written report shall be made to the department of human services within forty-eight hours after such oral report."
- Report to Whom** 232.70 (2) (1985).
 To the department human services.
- Mandated Actions** 232.70 (4) and 232.71 (1985).
 Promptly commence investigation, make a preliminary report of the investigation to the juvenile court within ninety-six hours after receipt of the initial abuse report, send a copy of the investigation report to the registry and to the county attorney, and initiate action in juvenile court if appropriate.
- Immunity** 232.73 (1985).
 "A person participating in good faith in the making of a report...or aiding and assisting in an investigation of a child abuse report pursuant to section 232.71 shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed. The person shall have the same immunity with respect to participation in good faith in any judicial proceeding resulting from the report..."

**Waiver of
Privilege**

232.74 (1985).

"...any...statute or rule of evidence which excludes or makes privileged the testimony of a husband or wife against the other or the testimony of a health practitioner as to confidential communications, do not apply to evidence regarding a child's injuries or the cause of the injuries in any judicial proceeding, civil or criminal, resulting from a report pursuant to this chapter..."

**Central
Registry**

235A.14 (1) and (2) (1985).

"(1) There is created within the state department of human services a central registry for child abuse information. The department shall organize and staff the registry and adopt rules for its operation.

(2) The registry shall collect, maintain and disseminate child abuse information as provided for by this chapter."

Penalty

232.75 (1) and (2) (1985).

"(1) Any person, official, agency or institution, required by this chapter to report a suspected case of child abuse who knowingly and willfully fails to do so is guilty of a simple misdemeanor.

(2) Any person, official, agency or institution, required by section 232.69 to report a suspected case of child abuse who knowingly fails to do so is civilly liable for the damages proximately caused by such failure."

KANSAS
Kansas Statutes Annotated

Citation	Kansas Statutes Annotated, Chapter 38, "Infants," Article 15, "Kansas Code for Care of Children," Sections 38-1501 to 38-1556 (1984 Supplement).
Purpose Clause	38-1521 (Supp. 1984). "It the policy of this state to provide for the protection of children who have been subjected to physical, mental or emotional abuse or neglect or sexual abuse by encouraging the reporting of suspected child abuse and neglect, insuring the thorough and prompt investigation of these reports and providing preventive and rehabilitative services when appropriate to abused or neglected children and their families so that, if possible, the families can remain together without further threat to the children..."
Reportable Conditions	38-1522 (a) (Supp. 1984). "...reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse..."
Definition of Abuse	38-1502 (b) and (c) (Supp. 1984). "(b)...infliction of physical, mental or emotional injury or the causing of a deterioration of a child and may include, but shall not be limited to, failing to maintain reasonable care and treatment, negligent treatment or maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered..." (c) sexual abuse committed with a child as defined in sections 21-3602 or 21-36-3.
Definition of Child	38-1502 (a) (1) (Supp. 1984). A person less than eighteen years of age.
Nature of Report	38-1522 (a) (Supp. 1984). Mandatory, Nonaccusatory. 38-1522 (b) (Supp. 1984). Voluntary.
Who Reports	38-1522 (a) (Supp. 1984). Persons licensed to practice the healing arts, dentists, optometrists, persons engaged in post-graduate training programs approved by the state board of healing arts, certified psychologist, Christian Science practitioners, licensed nurses,

teachers, school administrators or employees of a school the child attends, chief administrative officers of medical care facilities, persons licensed to provide child care services and their employees, licensed social workers, firefighters, emergency medical services personnel, and law enforcement officers.

38-1522 (b) (Supp. 1984).

"Any other person who has reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse..."

Reporting Procedure

38-1522 (a) (Supp. 1984).

Orally, followed by a written report if requested.

Report to Whom

38-1522 (c) (Supp. 1984).

Report to the state department of social and rehabilitation services. When the department is not open, report to the appropriate law enforcement agency.

Mandated Actions

38-1523 and 38-1524 (Supp. 1984).

Receive and investigate reports of abuse, determine whether the report is valid and if action is required to protect the child from further abuse, if no action is required to protect the child but criminal prosecution should be considered, report the case to the appropriate law enforcement agency.

Immunity

38-1526 (Supp. 1984).

"Anyone participating without malice in the making of an oral or written report [of abuse]..., or in any follow-up activity to or investigation of the report shall have immunity from any civil liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceedings resulting from the report."

Waiver of Privilege

38-1554 (a) (Supp. 1985).

"...no evidence relating to the condition of a child shall be excluded solely on the ground that the matter is or may be the subject of a physician-patient privilege, psychologist-client privilege or social worker-client privilege."

Central Registry

None.

Penalty

38-1522 (f) (Supp. 1984).

"Willful and knowing failure to make a report required by this section is a class B misdemeanor."

KENTUCKY
Kentucky Revised Statutes

Citation	Kentucky Revised Statutes, Title XVII, Chapter 199, "Protective Services for Children-Adoption," Sections 199.011 through 199.990 (1982 and 1984 Supplement).
Purpose Clause	199.335 (1) (Supp. 1984). "The purpose of this section...is to provide for the identifying of any abused or neglected child; to require reports of any suspected abused or neglected child; to assure that the protective services of the state will be made available to an abused or neglected child in order to protect such a child and his siblings; to further prevent abuse or neglect; to preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care; and to provide for immediate and prompt investigation of such reports."
Reportable Conditions	199.335 (2) (Supp. 1984). "...[knowledge of] or has reasonable cause to believe that a child is an abused or neglected child..."
Definition of Abuse	199.011 (6) (Supp. 1984). Harm or threatened harm to a child's health or welfare when a parent, guardian or other person who has permanent or temporary care, custody or responsibility for the supervision of the child: inflicts or allows to be inflicted physical or mental injury to the child by other than accidental means; creates or allows to be created a risk of physical or mental injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse on the child; willfully abandons or exploits the child; or fails to provide adequate care, supervision, food, clothing, shelter, education, or medical care for the child.
Definition of Child	199.011 (4) (1982). Any person who has not reached his eighteenth birthday.
Nature of Report	199.335 (3) (Supp. 1984). Mandatory, Accusatory.

Who Reports	199.335 (2) (Supp. 1984). Any physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child caring personnel, resident, intern, chiropractor, dentist, optometrist, health professional, peace officer, mental health professional or other person.
Reporting Procedure	199.335 (3) (Supp. 1984). Immediately by telephone or otherwise, followed within forty-eight hours by a written report if requested. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to the appropriate law enforcement agency.
Report to Whom	199.335 (Supp. 1984). To the department for social services.
Mandated Actions	199.335 (3) and (8) (Supp. 1984). Immediately send a report of suspected physical or sexual abuse to the appropriate law enforcement agency, initiate a prompt investigation, take necessary action and offer protective services toward safeguarding the welfare of the child and preventing further abuse or neglect.
Immunity	199.335 (6) (Supp. 1984). "Anyone acting upon reasonable cause in the making of a report pursuant to this section...shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed."
Waiver of Privilege	199.335 (7) (Supp. 1984). "Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding an abused or neglected child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section."
Central Registry	None.
Penalty	199.990 (7) (1982). "Anyone knowingly and willfully violating the provisions [of these subsections] shall be guilty of a Class B misdemeanor..."

LOUISIANA
West's Louisiana Revised Statutes Annotated

Citation	West's Louisiana Revised Statutes Annotated, Title 14, Part V, Section 403 (1974 and 1985 Supplement).
Purpose Clause	14:403 (A) (1974). "The purpose of this section is to protect children whose physical or mental health and welfare are adversely affected by abuse and/or neglect and may be further threatened by the conduct of those responsible for their care and protection by providing for the mandatory reporting of suspected cases by any person having reasonable cause to believe that such case exists. It is intended that as a result of such reports the protective services of the state shall be brought to bear on the situation in an effort to prevent further abuses, and to safeguard and enhance the welfare of these children. This section shall be administered and interpreted to provide the greatest possible protection as promptly as possible for such children."
Reportable Conditions	14:403 (C) (1) (Supp. 1985). "...cause to believe that a child's physical or mental health or welfare has been or may be further adversely affected by abuse or neglect..."
Definition of Abuse	14:403 (B) and (4) (3) (Supp. 1985). When a person responsible for the child's care inflicts physical or mental injury or causes the deterioration of a child including but not limited to such means as sexual abuse, sexual exploitation, or the exploitation or overwork of a child to such as extent that his health or moral or emotional well-being is endangered or a person responsible for the child's care fails to provide proper or necessary support, education required by law, medical, surgical, or other care necessary for a child's well-being.
Definition of Child	14:403 (B) (2) ((Supp. 1985). Any individual under the age of eighteen.
Nature of Report	14:403 (C) (1) and 14:403 (D) (1) and (2) (1974 and Supp. 1985). Mandatory, Nonaccusatory. 14:403 (C) (2) (1974). Voluntary.

Who Reports	14:403 (C) (1) (Supp. 1985). "Any person having cause to believe that a child's physical or mental health or welfare has been or may be further adversely affected by abuse or neglect such as licensed physicians, interns or residents, nurses, hospital staff members, teachers, social workers, coroners, and other persons or agencies having the responsibility for the care of children..."
	14:403 (C) (2) (1974). "Any other person having cause to believe that a child's physical or mental health or welfare has been or may be further adversely affected by abuse or neglect..."
Reporting Procedure	14:403 (D) (4) (1974). Immediate oral report followed by a written report within five days.
Report to Whom	14:403 (D) (1) (Supp. 1985). Report to the parish child welfare unit or the parish agency responsible for the protection of juveniles and to a local or state law enforcement agency if necessary.
Mandated Actions	14:403 (G) (Supp. 1985). Promptly make a preliminary investigation to ascertain the validity of the report, if there is reason to believe the child is abused or neglected conduct a more intensive investigation, if there is evidence of child abuse or neglect report to the district attorney as soon as possible, and petition the court for removal if necessary to protect the child from further abuse or neglect.
Immunity	14:403 (E) (1974). "Any person other than the alleged violator reporting pursuant to this section in good faith shall have immunity from liability, civil or criminal, that might be incurred or imposed. Such immunity shall extend to participation in any judicial proceeding resulting from such report."
Waiver of Privilege	14:403 (F) (1974). "Any privilege between husband and wife, or between any professional person and his client, such as physicians, and ministers, with the exception of the attorney and his client, shall not be grounds for excluding evidence at any proceeding regarding the abuse or neglect of the child or the cause thereof."

**Central
Registry**

14:403 (H) (Supp. 1985).

The Department of Health and Human Resources shall establish and maintain in Baton Rouge a central registry of all cases reported by a court of competent jurisdiction which finds that a child has been abused or neglected.

Penalty

14:403 (I) (1974).

"Any person, except those included in Sub-section E of this section, knowingly and willfully violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months or both."

MAINE
Maine Revised Statutes Annotated

Citation	Maine Revised Statutes Annotated, Title 22, "Child and Family Services and Child Protection Act," Subchapter II, "Reporting of Abuse or Neglect," Sections 4011 through 4017 (1984 Supplement).
Purpose Clause	4003 (Supp. 1984). "Recognizing that the right to family integrity is limited by the right of children to be protected from abuse and neglect and recognizing also that uncertainty and instability are possible in extended foster home or institutional living, it is the intent of the Legislature that this chapter...[authorize] the department to protect and assist abused and neglected children, children in circumstances which present a substantial risk of abuse and neglect, and their families..."
Reportable Conditions	4011 (Supp. 1984). "...knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected..."
Definition of Abuse	4002 (1) (Supp. 1984). A threat to a child's health or welfare by physical or mental injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these, by a person responsible for the child.
Definition of Child	4002 (2) (Supp. 1984). Any person who is less than 18 years of age.
Nature of Report	4011 (1) (A) and 4012 (2) (Supp. 1984). Mandatory, Nonaccusatory. 4011 (1) (B) (Supp. 1984). Voluntary.
Who Reports	4011 (1) (a) (Supp. 1984). While acting in his professional capacity, any medical or osteopathic physician, resident, intern, emergency medical technician, medical examiner, physician's assistant, dentist, dental hygienist, dental assistant, chiropractor, podiatrist, registered or licensed practical nurse, Christian Science practitioner, teacher, guidance counselor, school official, social

worker, homemaker, home health aid, medical or social service worker, psychologist, child care personnel, mental health professional or law enforcement official.

4011 (1) (B) (Supp. 1984).

"Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected."

Reporting Procedure

4012 (1) (Supp. 1984).

Immediately by telephone and followed by a written report within 48 hours if requested.

Report to Whom

4012 (1) (Supp. 1984).

To the Department of Human Services.

Mandated Actions

4004 (2) (Supp. 1984).

Promptly investigate, determine the degree of harm or threatened harm to each child, and take appropriate action to further the purposes of this chapter.

Immunity

4014 (Supp. 1984).

"A person participating in good faith in reporting under this subchapter, or participating in a related child protection investigation or proceeding, is immune from any criminal or civil liability for the act of reporting or participating in the investigation or proceeding..."

Waiver of Privilege

4015 (Supp. 1984).

"The husband-wife and physician and psychotherapist privileges...are abrogated in relation to reporting, cooperating with the department or a guardian ad litem in an investigation or other child protective activity or giving evidence in a child protection proceeding."

Central Registry

None.

Penalty

4009 (Supp. 1984).

"A person who knowingly violates a provision of this chapter commits a civil violation for which a forfeiture of not more than \$500 may be adjudged."

MARYLAND
Annotated Code of Maryland

Citation	Annotated Code of Maryland, Article 27, "Child Abuse," Section 35A, (1982 and 1984 Supplement).
Purpose Clause	35A (1982). "The General Assembly hereby declares as its legislative intent and purpose the protection of children who have been the subject of abuse by mandating the reporting of suspected abuse, by extending immunity to those who report in good faith, by requiring prompt investigations of such reports and by causing immediate cooperative efforts by the responsible agencies on behalf of such children."
Reportable Conditions	35A (c) (1982). "...believes or has reason to believe that the child has been abused..."
Definition of Abuse	35A (a) (Supp. 1984). The sustaining of physical injury by a child as a result of cruel or inhumane treatment or as a result of a malicious act by any parent or other person who has permanent or temporary care, custody or responsibility for supervision of a child under circumstances that indicate that the child's health or welfare is harmed or threatened thereby, or sexual abuse of a child through acts involving but not limited to molestation, exploitation, incest, rape, any sexual offense in any degree, sodomy, and unnatural or perverted sex practices by a parent or other person who has permanent or temporary care, custody or responsibility for supervision of the child.
Definition of Child	35A (a) (Supp. 1984). Any individual under the age of 18 years.
Nature of Report	35A (c) and (d) (1982). Mandatory, Nonaccusatory. 35A (e) (1982). Mandatory.
Who Reports	35A (c) (1982). Every health practitioner, educator or social worker or law enforcement officer who contacts, examines, attends or treats a child and who believes or has reason to believe that the child has been abused.

35A (e) (1982).

Any person other than a health practitioner, educator, social worker or law enforcement officer who has reason to believe a child is abused.

**Reporting
Procedure**

35A (d) (1982).

Orally, by telephone or direct communication, and in written form, both reports to be made as soon as is reasonably possible in the circumstances. In any case the written report must be made within forty-eight hours of the contact with the child that disclosed the existence of possible abuse.

**Report to
Whom**

35A (d) (1982).

To the local department of social services or the appropriate law enforcement agency. All written reports should be sent to the local department of social services and a copy sent to the local State's attorney.

**Mandated
Actions**

35A (f) (1982).

Make a thorough investigation promptly upon receiving the report. The primary purpose of the investigation shall be the protection of the welfare of the child.

Immunity

35A (j) (1) (1982).

"Any person, including a health practitioner, educator, or social worker or law enforcement officer, participating in the making of a good faith report pursuant to this section or participating in an investigation or in a judicial proceeding resulting therefrom shall in so doing be immune from any civil liability or criminal penalty that might otherwise be incurred or imposed as a result thereof."

**Waiver of
Privilege**

35A (c) (1982).

"Every health practitioner, educator or social worker or law enforcement officer...is required to make [reports]...notwithstanding any other section of the law relating to privileged communications..."

**Central
Registry**

35A (k) (1982).

"The State Social Services Administration shall and each local department of social services may maintain a central registry of cases reported under this section, which data shall be furnished by the respective departments of social services

throughout the State of Maryland. This data shall be at the disposal of protective services staff of the Social Services Administration, protective services staff of local departments of social services, who are investigating a report of suspected child abuse, and law enforcement personnel who are investigating a report of suspected child abuse.

Penalty

None.

MASSACHUSETTS
Annotated Laws of Massachusetts (Michie/Law. Co-op.)

Citation	Annotated Laws of Massachusetts (Michie/Law Co-op), Chapter 119, "Protection and Care of Children...", Section 51, "Abused, Maltreated, and Neglected Children Under Sixteen Years of Age," (1985 Supplement).
Purpose Clause	1 (1975). "...The purpose of this chapter is to insure that the children of the commonwealth are protected against the harmful effects resulting from the absence, inability, inadequacy or destructive behaviour of parents or parent substitutes, and to assure good substitute parental care in the event of the absence, temporary or permanent inability or unfitness of parents to provide care and protection for their children."
Reportable Conditions	51A (Supp. 1985). One in his professional capacity has reasonable cause to believe that a child is suffering serious physical or emotional injury resulting from abuse.
Definition of Abuse	51A (Supp. 1985). "...serious physical or emotional injury resulting from abuse inflicted upon him including sexual abuse, or from neglect, including malnutrition..."
Definition of Child	51A (Supp. 1985). Any child under the age of eighteen.
Nature of Report	51A (Supp. 1985). Mandatory, Nonaccusatory. 51A (Supp. 1985). Voluntary.
Who Reports	51A (Supp. 1985). "Any physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, psychologist, emergency medical technician, dentist, nurse, chiropractor, podiatrist, osteopath, public or private school teacher, educational administrator, guidance or family counselor, day care worker, probation officer, social worker, foster parent, firefighter or policeman..."

	<p>51A (Supp. 1985). Any other person that has reasonable cause to believe that a child is suffering from or has died as the result of abuse or neglect.</p>
Reporting Procedure	<p>51A (Supp. 1985). Immediate oral report followed by a written report within forty-eight hours.</p>
Report to Whom	<p>51A (Supp. 1985). Report to the department of public welfare.</p>
Mandated Actions	<p>51B (Supp. 1985). Investigate each report. Investigate within twenty-four hours of a report if there is reasonable cause to believe that the child's health or safety is in immediate danger. Remove the child if necessary to protect him from further abuse or neglect. Notify the county district attorney if there is reasonable cause to believe that the child died, suffered brain damage, was sexually exploited or suffered serious bodily injury as a result of abuse or neglect.</p>
Immunity	<p>51A (Supp. 1985). "...No person required to report shall be liable in any civil or criminal action by reason of such report. No other person making such report shall be liable in any civil or criminal action by reason of such report if it was made in good faith; provided, however, that such person did not perpetrate or inflict said abuse or cause said neglect..."</p>
Waiver of Privilege	<p>51A (Supp. 1985). The privileges of social worker-client and psychotherapist-patient shall not prohibit the filing of a report pursuant to this section.</p>
Central Registry	<p>51F (Supp. 1985). "The department shall maintain a central registry..."</p>
Penalty	<p>51A (Supp. 1985). Failure to report is punishable by a fine of not more than one thousand dollars.</p>

MICHIGAN
Michigan Statutes Annotated (Callaghan)

Citation	Michigan Statutes Annotated (Callaghan), Title 25, "Domestic Relations," Chapter 248, "Dependent, Neglected and Delinquent Children," Sections 25.248 (1) through 25.248 (14) (1984).
Purpose Clause	25.248 (1984). "...to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to safeguard and enhance the welfare of children and preserve family life..."
Reportable Conditions	25.248(3) (1984). "...reasonable cause to suspect child abuse or neglect..."
Definition of Abuse	25.248(2) (c) and (d) (1984). Harm or threatened harm to a child by a person responsible for the child's health or welfare other than by accidental means, sexual abuse, maltreatment, negligent treatment that includes failure to provide adequate food, clothing, shelter, or medical care.
Definition of Child	25.248(2) (b) (1984). A person under the age of eighteen.
Nature of Report	25.248(3) (1) and (2) (1984). Mandatory, Nonaccusatory. 25.248(4) (1984). Voluntary.
Who Reports	25.248(3) (1) (1984). "A physician, coroner, dentist, medical examiner, nurse, audiologist, certified social worker, social worker, social work technician, school administrator, school counselor or teacher, law enforcement officer or duly regulated child care provider..." 25.248(4) (1984).
Reporting Procedure	25.248(3) (1) (1984). Immediate oral report followed by a written report within seventy-two hours.

- Report to Whom** 25.248(3) (1) (1984).
Report to the state department of social services.
- Mandated Actions** 25.248(8) (1984).
Investigate within twenty-four hours after the receipt of a report, determine if the child is abused or neglected, provide necessary services through other agencies and professions, take necessary actions to prevent further abuse.
- Immunity** 25.248(5) (1984).
"...A person acting in good faith who makes a report or assists in any other requirement of this act shall be immune from civil or criminal liability which might otherwise be incurred thereby. A person making a report or assisting in any other requirement of this act shall be presumed to have acted in good faith."
- Waiver of Privilege** 25.248(11) (1984).
"Any legally recognized privileged communication except that between attorney and client is abrogated and shall neither constitute grounds for excusing a report otherwise required to be made nor for excluding evidence in a civil child protective proceeding resulting from a report made pursuant to this act."
- Central Registry** 25.248(7) (1) (1984).
"The department shall maintain a central registry..."
- Penalty** 25.248(13) (1) and (2) (1984).
"(1) A person required to report an instance of suspected child abuse or neglect who fails to do so is civilly liable for the damages proximately caused by the failure.
(2) A person required to report an instance of suspected child abuse or neglect who knowingly fails to do so is guilty of a misdemeanor."

MINNESOTA
Minnesota Statutes Annotated (West)

Citation	Minnesota Statutes Annotated (West), Chapter 626, Section 626.556 (1985 Supplement).
Purpose Clause	626.556 (1) (Supp. 1985). "The Legislature hereby declares that the public policy of this state is to protect children whose health or welfare might be jeopardized through physical abuse, neglect or sexual abuse; to strengthen the family and make the home, school, and community safe for children by promoting responsible child care in all settings; and to provide, when necessary, a safe temporary or permanent home environment for physically or sexually abused children. In addition, it is the policy of this state to require the reporting of suspected neglect, physical or sexual abuse of children in the home, school, and community settings; to provide for the voluntary reporting of abuse or neglect of children; to require the assessment and investigation of the reports; and to provide protective and counseling services in appropriate cases."
Reportable Conditions	626.556 (2) (Supp. 1985). "...knowledge of or reasonable cause to believe a child is being neglected or physically or sexually abused..."
Definition of Abuse	626.556 (a), (c) and (d) (Supp.1985). Any physical injury inflicted on a child by a person responsible for the child's care or which cannot reasonably be explained by the child's history of injuries, any subjection of a child to acts constituting sexual offenses, or neglect by failure to supply a child with necessary food, clothing, shelter, or medical care when reasonably able to do so, or failing to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so.
Definition of Child	260.015 (2) (1983). An individual under 18 years of age.
Nature of Report	626.556 (3) and (7) (Supp. 1985). Mandatory, Accusatory. 626.556 (3) (Supp. 1985). Voluntary.

- Who Reports** 626.556 (3) (Supp. 1985).
 "A professional or his delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement..."
 626.556 (3) (Supp. 1985).
 "Any person not required to report under the provisions of this subdivision may voluntarily report to the local welfare agency, police department or the county sheriff if he has knowledge of or reasonable cause to believe a child is being neglected or subjected to physical or sexual abuse."
- Reporting Procedure** 626.556 (7) (Supp. 1985).
 Immediate oral report by telephone or otherwise, followed as soon as possible by a written report.
- Report to Whom** 626.556 (7) (Supp. 1985).
 To the local welfare agency, police department or the county sheriff.
- Mandated Actions** 626.556 (10) (Supp. 1985).
 "...immediately conduct an assessment and offer protective services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. When necessary the local welfare agency shall seek authority to remove the child from the custody of the parent, guardian or adult with whom he is living."
- Immunity** 626.556 (1) (Supp. 1985).
 "Any person, including those voluntarily making reports and those required to make reports under subdivision 3, participating in good faith and exercising due care in the making of a report or assisting in an assessment pursuant to this section has immunity from any liability, civil or criminal, that otherwise might result by reason of his action."
- Waiver of Privilege** 626.556 (8) (Supp. 1985).
 "No evidence relating to the neglect or abuse of a child or to any prior incidents of neglect or abuse involving any of the same persons accused of neglect or abuse shall be excluded in any proceeding arising out of the alleged neglect or abuse on the grounds of privilege..."

**Central
Registry**

None.

Penalty

626.556 (6) (1983).

"Any person required by this section to report physical or sexual abuse or neglect who willfully fails to do so shall be guilty of a misdemeanor."

MISSISSIPPI
Mississippi Code Annotated

Citation	Mississippi Code Annotated, Title 43, Chapter 21 Sections 43-21-353 through 43-21-357 (1981 and 1984 Supplement).
Purpose Clause	None.
Reportable Conditions	43-21-353 (1) (Supp. 1984). "...reasonable cause to suspect that a child brought to him or coming before him for examination, care or treatment, or of whom he has knowledge through observation is a neglected child or an abused child..."
Definition of Abuse	43-21-105 (m) (1981). Causing or allowing to be caused upon a child sexual abuse, including obscene or pornographic photographing, filming or depiction of children for commercial purposes, rape, molestation, incest, prostitution or other forms of sexual exploitation, emotional abuse, mental injury, nonaccidental physical injury, or other maltreatment.
Definition of Child	43-21-105 (d) (1981). Any person who has not reached his eighteenth birthday and is not on active duty for a branch of the armed services.
Nature of Report	43-21-353 (1) (Supp. 1984). Mandatory, Nonaccusatory.
Who Reports	43-21-353 (1) (Supp. 1984). Any attorney, physician, dentist, intern, resident, nurse, psychologist, teacher, social worker, school principal, child care giver, minister, law enforcement officer, or any other person.
Reporting Procedure	43-21-353 (1) (Supp. 1984). Immediate oral report by telephone or otherwise, followed as soon thereafter as possible by a report in writing.
Report to Whom	43-21-353 (1) (Supp. 1984). To the department of public welfare.

Mandated Actions	43-21-357 (1) (1981). Promptly make a preliminary inquiry to determine whether the interest of the child requires further investigation.
Immunity	43-21-355 (Supp. 1984). "Any attorney, physician, dentist, intern, resident, nurse, psychologist, teacher, social worker, school principal, child care giver, minister, law enforcement officer, school attendance officer, or any other person participating in the making of a required report pursuant to section 43-21-353...shall be presumed to be acting in good faith. Any person or institution reporting in good faith shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed."
Waiver of Privilege	43-23-9 (1981). "...The reporting of an abused or neglected child shall not constitute a breach of confidentiality."
Central Registry	43-21-257 (3) (1981). "The department of public welfare shall maintain a state central registry on neglect and abuse cases containing only the name, address and age of each child, the nature of the harm reported and the name and address of the person responsible for the care of the child."
Penalty	None.

MISSOURI
Vernon's Annotated Missouri Statutes

Citation	Vernon's Annotated Missouri Statutes, Title XII, Chapter 210, "Child Protection and Reformation," Sections 210.110 through 210.165 (1983).
Purpose	None.
Reportable Conditions	210.115 (1983). "...reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect..."
Definition of Abuse	210.110 (1) (1983). "Any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for his care, custody, and control except that discipline including spanking, administered in a reasonable manner shall not be construed to be abuse."
Definition of Child	210.110 (2) (1983). Any person under eighteen years of age.
Nature of Report	210.115 (1) and 210.130 (2) (1983). Mandatory, Accusatory. 210.115 (4) (1983). Voluntary.
Who Reports	210.115 (1) (1983). Any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital and clinic personnel, and other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child care worker, juvenile officer, probation or parole officer, teacher, principal or other school official, Christian Science practitioner, peace officer or law enforcement official, or other person with responsibility for the care of children. 210.115 (4) (1983). "...any other person may report...if such person has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances

which would reasonably result in abuse or neglect."

Reporting Procedure	210.130 (1) (1983). Orally by telephone or otherwise.
Report to Whom	210.115 (1) (1983). To the division of family services.
Mandated Actions	210.145 (3), (4), (7) and (8) (1983). Immediately communicate the report to the appropriate local office, check with the central registry to determine whether previous reports have been made regarding actual or suspected abuse or neglect of the child, cause a thorough investigation to be initiated immediately or no later than twenty-four hours of receipt of the report, and make any subsequent reports necessary.
Immunity	210.135 (1983). "Any person, official, or institutions complying with the provisions of sections 210.110 to 210.165 in the making of a report...shall have immunity from any liability, civil or criminal, that otherwise might result by reason of such actions. Provided, however, any person intentionally filing a false report shall not have immunity, from any liability, civil or criminal..."
Waiver of Privilege	210.140 (1983). "Any legally recognized privileged communication, except that between attorney and client, shall not apply to situations involving known or suspected child abuse or neglect..."
Central Registry	210.145 (2) (1983). "The division shall maintain a central registry capable of receiving and maintaining reports received...in a manner that facilitates rapid access and recall of the information reported, and of subsequent investigations and other relevant information."
Penalty	210.165 (1983). "Any person violating any provision of sections 210.110 to 210.165 is guilty of a class A misdemeanor."

MONTANA
Montana Code Annotated

Citation	Montana Code Annotated, Title 41, Chapter 3, "Child Abuse, Neglect, and Dependency," Sections 41-3-101 through 41-3-408 (1983).
Purpose Clause	41-3-101 (2) (1983). "It is the policy of this state to provide for the protection of children whose health and welfare are or may be adversely affected and further threatened by the conduct of those responsible for their care and protection. It is intended that the mandatory reporting of such cases by professional people and other community members to the appropriate authority will cause the protective services of the state to seek to prevent further abuses, protect and enhance the welfare of these children, and preserve family life wherever possible."
Reportable Conditions	41-3-201 (1) (1983). "...reasonable cause to suspect that a child known to them in their professional or official capacity is an abused or neglected child..."
Definition of Abuse	41-3-102 (2) and (3) (1983). Harm or threatened harm to a child's mental health or welfare that occurs whenever the parent or other person responsible for the child's welfare inflicts or allows to be inflicted physical or mental injury, including injuries sustained as a result of excessive corporal punishment, commits or allows to be committed a sexual assault against the child, exploits the child for sexual purposes, commits or allows to be committed an act of sexual abuse, fails to supply the child with adequate food, clothing, shelter, education, or health care, or abandons the child.
Definition of Child	41-3-102 (1) (1983). Any person under 18 years of age.
Nature of Report	41-3-201 (1) and (5) (1983). Mandatory, Nonaccusatory. 41-3-201 (2) (1983). Voluntary.

Who Reports 41-3-202 (2) (1983).
Physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons, nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional, Christian Science practitioner and religious healers, school teachers, other school officials, and employees who work during regular school hours, social worker, operator or employee of any registered or licensed day-care or substitute care facility, or any other operator or employee of a child-care facility, foster care, residential, or institutional worker, or peace officer or other law enforcement official.

Reporting Procedure 41-3-201 (1) (1983).
Report promptly.

Report to Whom 41-3-201 (1) (1983).
The department of social and rehabilitative services or its local affiliate.

Mandated Actions 41-3-202 (1) (1983).
Promptly conduct a thorough investigation into the home of the child involved or any other place where the child is present, into the circumstances surrounding the injury of the child, and into all other nonfinancial matters which in the discretion of the investigator are relevant to the investigation.

Immunity 41-3-203 (1983).
"Anyone investigating or reporting any incident of child abuse or neglect, participating in resulting judicial proceedings, or furnishing hospital or medical records as required by 41-3-202 is immune from any liability, civil or criminal, that might otherwise be incurred or imposed, unless the person acted in bad faith or with malicious purpose."

**Waiver of
Privilege**

41-3-204 (1983).

"...the report or its contents or any other fact related to the report or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a privilege...except the attorney-client privilege..."

Penalty

41-3-208 (1983).

"Any person, official, or institution required by law to report known or suspected child abuse or neglect or required to perform any other act who fails to do so or who prevents another person from reasonably doing so is civilly liable for the damages proximately caused by such failure or prevention."

NEBRASKA
Revised Statutes of Nebraska

Citation	Revised Statutes of Nebraska, Chapter 28, Article 7, "Offenses Involving the Family Relation," Sections 28-701 through 28-727 (1979 and 1984 Supplement).
Purpose Clause	None.
Reportable Conditions	28-711 (Supp. 1984). "...reasonable cause to believe that a child...has been subjected to conditions or circumstances which reasonably would result in abuse or neglect..."
Definition of Abuse	28-710 (3) (Supp. 1984). Knowingly, intentionally, or negligently causing or permitting a minor child to be placed in a situation that endangers his life or physical or mental health, cruelly confined or punished, deprived of necessary food, clothing, shelter or care, left unattended in a vehicle if the child is under six years of age, or sexually abused.
Definition of Child	28-710 (3) (Supp. 1984). A minor.
Nature of Report	28-711 (1) (Supp. 1984). Mandatory, Accusatory.
Who Reports	28-711 (1) (Supp. 1984). Any physician, medical institution, nurse, school employee, social worker, or any other person.
Reporting Procedure	28-711 (Supp. 1984). By telephone on a toll-free number followed by a written report.
Report to Whom	28-711 (Supp. 1984). To the Department of Public Welfare or the proper law enforcement agency.
Mandated Actions	28-712 (Supp. 1984). Determine whether an investigation should be made, investigate, take immediate steps to protect the abused or neglected person, and institute appropriate legal proceedings.

- Immunity** 28-716 (1979).
"Any person participating in an investigation or the making of a report...shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, except for maliciously false statements."
- Waiver of Privilege** 28-708 (2) (Supp. 1984).
"The statutory privilege between patient and physician and husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section."
- Central Registry** 28-715 (1979).
"The Department of Public Welfare shall file each report of suspected child abuse or neglect in a special state Abused or Neglected Child, Incompetent and Disabled Person Registry to be maintained in such department."
- Penalty** 28-717 (1979).
"Any person who willfully fails to make any report required...shall be guilty of a Class III misdemeanor."

NEVADA
Nevada Revised Statutes

Citation	Nevada Revised Statutes, Title 16, Chapter 200, "Child Abuse and Neglect," Sections 501 through 5085 (1981 and 1983).NOTE: Sections 501 through 508 were repealed by the 63rd Session of the Nevada Legislature (1985).
Purpose	"It is the policy of this state to provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and all appropriate state agencies providing human services in relation to preventing, identifying and treating child abuse and neglect, through the complete reporting of child abuse and neglect and investigation of such reports by a social agency and the provision of services where needed, to protect the best interests of the child, to offer protective services in order to prevent any further harm to the child, to preserve family life whenever possible and to provide the child a temporary or permanent safe environment when necessary."
Reportable Conditions	200.502 (1) (1981). "...possible abuse or neglect..."
Definition of Abuse	200.5011 (1983). Physical or mental injury of a nonaccidental nature, sexual abuse, sexual exploitation or negligent treatment or maltreatment of a child by a person responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened.
Definition of Child	200.502 (1) (1981). A child under the age of 18.
Nature of Report	200.502 (2) (1981). Mandatory, Nonaccusatory. 200.502 (3) (1981). Voluntary.
Who Reports	200.502 (2) (1981). Every physician, dentist, chiropractor, optometrist, resident and intern licensed in this state, examining, attending or treating an apparently abused or neglected child, the superintendent, manager or other person in charge of a hospital or similar institution

upon notification by a physician, every professional or practical nurse, physician's assistant, psychologist, emergency medical technician-ambulance, attorney, clergyman, social worker, school authority and teacher, persons who maintain or are employed by a licensed child care facility, and volunteers for agencies or services which advise persons with regard to child abuse and neglect.

200.502 (3) (1981).

"A report may be made any other person."

**Reporting
Procedure**

200.503 (1) (1981).

Verbally, by telephone or otherwise, and reduced to writing by the maker as soon as possible.

**Report to
Whom**

200.502 (1) (1981).

To the welfare division, county agency or law enforcement agency.

**Mandated
Actions**

200.504 (1981).

File a copy of each report with the central and regional registries for child abuse and neglect, investigate, and provide such social services as are necessary to protect the child and preserve the family.

Immunity

200.505 (1981).

"Immunity from civil or criminal liability extends to every person participating in good faith in:

1. The making of a report...
2. The instituting of actions...or
3. A judicial proceeding resulting therefrom."

**Waiver of
Privilege**

200.506 (1981).

"...such report or contents or any other fact or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter would otherwise be privileged against disclosure..."

**Central
Registry**

432.100 (1983).

"There is hereby established a statewide central registry for child abuse and neglect."

Penalty

200.507 (1983).

"Any person who knowingly and willfully violates the provisions of NRS 200.502 and 200.503 is guilty of a misdemeanor."

NEW HAMPSHIRE
New Hampshire Revised Statutes Annotated

Citation	New Hampshire Revised Statutes Annotated, Title VII, Chapter 169-C, "Child Protection Act," "Reporting Law," Sections 169-C:29 through 169-C:39 (1983 Supplement).
Purpose Clause	169-C:2 (1983). "It is the purpose of this chapter, through the mandatory reporting of suspected instances of child abuse or neglect, to provide protection to children whose life, health or welfare is endangered and to establish a judicial framework to protect the rights of all parties involved in the adjudication of child abuse and negligence cases..."
Reportable Conditions	169-C:29 (Supp. 1983). "...having reason to suspect that a child has been abused or neglected..."
Definition of Abuse	169-C:3 (II) (Supp. 1983). Sexual molestation or exploitation, intentional physical injury, psychological injury so that the child exhibits symptoms of emotional problems, or physical injury other than by accidental means.
Definition of Child	169-C:3 (V) (Supp. 1983). Any person who has not reached his eighteenth birthday.
Nature of Report	169-C:30 (Supp. 1984). Mandatory, Accusatory.
Who Reports	169-C:29 (Supp. 1983). Any physician, surgeon, county medical referee, psychiatrist, resident, intern, dentist, osteopath, optometrist, chiropractor, psychologist, therapist, registered nurse, hospital personnel, Christian Science Practitioner, teacher, school official, school nurse, school counselor, social worker, day care worker, any other child or foster care worker, law enforcement official, priest, minister, or rabbi or any other person.
Reporting Procedure	169-C:30 (Supp. 1983). Immediately by telephone or otherwise, followed within 48 hours by a written report.

- Report to Whom** 169-C:30 (Supp. 1983).
To the bureau of child and family services, division of welfare, department of health and welfare.
- Mandated Actions** 169-C:34 (Supp. 1983).
"If it appears that the immediate safety or well-being of a child is endangered, the family may flee or the child disappear, or the facts otherwise so warrant, the bureau shall commence an investigation immediately after receipt of a report. In all other cases, a child protective investigation shall be commenced within 72 hours of receipt of the report."
- Immunity** 169-C:31 (Supp. 1983).
"Anyone participating in good faith in the making of a report pursuant to this chapter is immune from any liability, civil or criminal, that might otherwise be incurred or imposed..."
- Waiver of Privilege** 169-C:32 (Supp. 1983).
"The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client, shall not apply to the proceeding instituted pursuant to this chapter and shall not constitute grounds for failure to report as required..."
- Central Registry** 169-C:35 (Supp. 1983).
"There shall be established a state registry of abuse and neglect reports made pursuant to this chapter at the bureau for the purpose of maintaining a record of information on each case of alleged abuse or neglect reported."
- Penalty** 169-C:39 (1983).
"Anyone who knowingly violates any provision of this subdivision shall be guilty of a misdemeanor."

NEW JERSEY

New Jersey Statutes Annotated (West)

Citation	New Jersey Statutes Annotated (West), Title 9, Chapter 6, "Abandonment, Abuse, Cruelty and Neglect," Article 2, Sections 9:6-8.8 through 9:6-8.20 (1976 and 1985 Supplement).
Purpose Clause	9:6-8.8 (1976). "The purpose of this act is to provide for the protection of children under 18 years of age who have had serious injury inflicted upon them by other than accidental means. It is the intent of this legislation to assure that the lives of innocent children are immediately safeguarded from further injury and possible death and that the legal rights of such children are fully protected."
Reportable Conditions	9:6-8.10 (1976). "...reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse..."
Definition of Abuse	9:6-8.9 (1976). Inflicting, allowing, or creating a risk of physical injury to a child by other than accidental means causing or creating a substantial risk of death, serious or protracted disfigurement, protracted impairment of physical or emotional health, protracted loss or impairment of physical or emotional health, protracted loss or impairment of the function of a bodily organ, committing or allowing an act of sexual abuse, or failing to exercise a minimum degree of care in supplying adequate food, clothing, shelter, education, medical or surgical care, inflicting excessive corporal punishment, or abandoning a child.
Definition of Child	9:6-8.21 (Supp. 1985). A child under the age of 18 years.
Nature of Report	9:6-8.10 (1976). Mandatory, Nonaccusatory.
Reporting Procedure	9:6-8.10 (1976). By telephone or otherwise.

Report to Whom 9:6-8.10 (1976).
To the Bureau of Children's Services.

Mandated Actions 9:6-8.18 (1976).
Take action to insure the safety of the child, and investigate the circumstances under which the child was injured.

Immunity 9:6-8.14 (1976).
"Anyone acting pursuant to this act in the making of a report under this act shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed..."

Waiver of Privilege None.

Central Registry 9:6-8.11 (1976).
A central registry is established at the Bureau of Children's Services in Trenton.

Penalty 9:6-8.14 (1976).
"Any person knowingly violating the provisions of this act including the failure to report an act of child abuse having reasonable cause to believe that an act of child abuse has been committed, is a disorderly person."

NEW MEXICO

New Mexico Statute Annotated

Citation	New Mexico Statutes Annotated, Chapter 32, Article 1, "The Children's Code," Section 32-1-1 through 32-1-16 (1981 and 1984 Supplement).
Purpose Clause	32-1-2 (1981). "The Children's Code shall be interpreted and construed to effectuate the following expressed legislative purposes... D. to separate clearly in the judicial and other processes affecting children under the Children's Code the neglected child, the abused child, the child in need of supervision and the delinquent child and to provide appropriate and distinct dispositional options for treatment and rehabilitation of these children..."
Reportable Conditions	32-1-15 (A) (Supp. 1984). "...knowing or suspecting that a child is an abused or neglected child..."
Definition of Abuse	32-1-3 (M) (1981). Physical, emotional or psychological abuse, sexual abuse or exploitation including rape, criminal sexual penetration, incest, sexual molestation, allowing, permitting, encouraging or engaging a child in prostitution or pornographic photography, knowingly, intentionally or negligently placing a child in a situation that may endanger his life or health, or knowingly or intentionally torturing, confining, or cruelly punishing a child.
Definition of Child	32-1-3 (A) (1981). An individual who is less than eighteen years old.
Nature of Report	32-1-15 (B) (Supp. 1984). Mandatory, Nonaccusatory.
Who Reports	32-1-15 (A) (Supp. 1984). Any licensed physician, resident or intern, law enforcement officer, registered nurse, visiting nurse, schoolteacher or social worker acting in his official capacity or any other person.

Reporting Procedure	32-1-15 (B) (Supp. 1984). Prompt oral report by telephone or in person, with a written report submitted as soon thereafter as possible.
Report to Whom	32-1-15 (A) (Supp. 1984). To the criminal prosecution division of the office of the district attorney, the county social services office of the human services department in the county where the child resides, or the probation services office of the judicial district in which the child resides.
Mandated Actions	32-1-15 (C) (Supp. 1984). Take immediate steps to insure prompt investigation of the report. Such investigation shall insure that immediate steps are taken to protect the health or welfare of the abused or neglected child.
Immunity	32-1-17 (B) (1981). "Anyone reporting an instance of alleged child neglect or abuse or participating in a judicial proceeding brought as a result of a report required by Section 32-1-15...is presumed to be acting in good faith and shall be immune from liability, civil or criminal, that might otherwise be incurred or imposed by the law unless the person acted in bad faith or with malicious purpose."
Waiver of Privilege	32-1-16 (A) (1981). "...the report or its contents, or any other facts related thereto or to the condition of the child who is the subject of the report, shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege or similar privilege or rule against disclosure."
Central Registry	None.
Penalty	32-1-15 (Supp. 1984). "Any person failing, neglecting or refusing to report as provided...is guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100)."

NEW YORK
McKinney's Consolidated Laws of New York Annotated

Citation	McKinney's Consolidated Laws of New York Annotated, Volume 52A, Article 6, "Children," Title 6, "Child Protective Services," Sections 411 through 428 (1983 and 1984 Supplement).
Purpose Clause	411 (1983). "It is the purpose of this title to encourage more complete reporting of suspected child abuse and maltreatment and to establish in each county of the state a child protective service capable of investigating such reports swiftly and competently and capable of providing protection for the child or children from further abuse of maltreatment and rehabilitative services for the child or children and parents involved."
Reportable Conditions	413 (1983). "...reasonable cause to suspect that a child before them in their professional or official capacity is an abused or maltreated child...."
Definition of Abuse	412 (1983). An abused child is defined by Section 1012 of the Family Court Act. A child is abused when a parent or person legally responsible for his care inflicts physical injury by other than accidental means which creates substantial risk of death, serious disfigurement or impairment of emotional health, or commits a sex offense against the child. A maltreated child is defined as a neglected child by Section 1012 of the Family Court Act. A neglected child is one whose physical, or mental condition is impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care in supplying adequate food, clothing, shelter or education or in providing proper supervision, or one who has been abandoned.
Definition of Child	412 (1) (1983). A child under the age of eighteen.
Nature of Report	413 and 415 (1983). Mandatory, Accusatory. 414 and 415 (1983). Voluntary, Accusatory.

- Who Reports** 413 (1983).
The following persons are required to report:
"...any physician, surgeon, medical examiner, coroner, dentist, osteopath, optometrist, chiropractor, podiatrist, resident, intern, psychologist, registered nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, a Christian Science practitioner, school official, social services worker, day care center worker or any other child care or foster care worker, mental health professional, peace officer, police officer or law enforcement official...."
- 414 (1983).
Any person may report if they have reasonable cause to suspect that a child is abused or maltreated.
- Reporting Procedure** 415 (1983).
Immediate oral report by telephone followed by a written report within 48 hours. Written reports must be made on forms supplied by the commissioner.
- Report to Whom** 415 (1983).
"Oral reports shall be made to the statewide central register of child abuse and maltreatment unless the appropriate local plan for the provision of child protective services provides that oral reports should be made to the local child protective service....Written reports shall be made to the appropriate local child protective service in a manner prescribed and on forms supplied by the commissioner...."
- Mandated Actions** 424 (1983).
Each child protective service shall receive reports of suspected child abuse or maltreatment, maintain and keep an up-to-date register of all cases reported, immediately upon receipt of a written report transmit the report to the state central register and not later than seven days after receipt of the report send a preliminary written report of the initial investigation to the state central register, begin to investigate within twenty-four hours of receipt of a report, determine whether the report is "indicated" or "unfounded," and provide protective services for the child if necessary.

Immunity

419 (Supp. 1984).

"Any person, official, or institution participating in good faith in the... making of a report...shall have immunity from any liability, civil or criminal, that might otherwise result by reason of such actions....[T]he good faith of any such person, official or institution required to report...shall be presumed, provided such person official or institution was acting in the discharge of their duties and within the scope of employment, and that such liability did not result from willful misconduct or gross negligence..."

Waiver of Privilege

1046 (a) (vii) (1983).

The privileges between husband and wife, physician and patient, psychologist and client, or social worker and client are not grounds for excluding evidence which would otherwise be admissible.

Central Registry

422 (1983 and Supp. 1984).

"(1) There shall be established...a statewide register of child abuse and maltreatment reports made pursuant to this title.

(2) The central register shall be capable of receiving oral and electronic reports of child abuse or maltreatment and of immediately identifying prior reports of child abuse or maltreatment and capable of monitoring the provision of child protective service twenty-four hours a day, seven days a week...To effectuate this purpose, ...there shall be a single statewide telephone number that all persons so authorized by this title may use for determining the existence of prior reports in order to evaluate the condition or circumstances of the child before them..."

Penalty

420 (1) and (2) (1983).

"(1) Any person...required...to report a case of suspected child abuse or maltreatment who willfully fails to do so shall be guilty of a class A misdemeanor.

(2) Any person...required...to report a case of suspected child abuse or maltreatment who knowingly and willfully fails to do so shall be civilly liable for the damages proximately caused by such failure."

NORTH CAROLINA
General Statutes of North Carolina

Citation	General Statutes of North Carolina, Chapter 7A, Article 44, "Screening of Abuse and Neglect Complaints," Sections 7A-542 through 7A-552 (1981).
Purpose Clause	7A-542 (1981). "The Director of the Department of Social Services in each county of the State shall establish protective services for juveniles alleged to be abused, neglected, or dependent...to help the parents or other caretakers and the court to prevent abuse or neglect, to improve the quality of child carer, to be more adequate parents or caretakers, and to preserve and stabilize family life."
Reportable Conditions	7A-543 (1981). "...cause to suspect that any juvenile is abused or neglected...."
Definition of Abuse	7A-517 (1) (a) through (e) (1981). An abused juvenile is one whose parent or other person responsible for his care inflicts a physical injury other than by accidental means which causes substantial risk of death, disfigurement, or impairment of physical health, commits a sexual act upon a juvenile in violation of law, commits or encourages any act of prostitution with or by the juvenile, or directs or encourages delinquent acts involving moral turpitude committed by the juvenile.
Definition of Child	7A-517 (1) (1981). A juvenile less than the age of eighteen.
Nature of Report	7A-543 (1981). Mandatory, Nonaccusatory.
Who Reports	7A-543 (1981). "Any person or institution who has cause to suspect that any juvenile is abused or neglected shall report...."
Reporting Procedure	7A-543 (1981). Report orally, by telephone, or in writing. If the report is given orally by telephone, the person giving the report must give his name, address, and telephone number. Refusal to give a name does not preclude the Department's investigation of the alleged abuse or neglect.

Report to Whom	7A-543 (1981). Report to the Director of the Department of Social Services.
Mandated Actions	7A-544 (1981). "When a report of abuse or neglect is received, the Director of the Department of Social Services shall make a prompt and thorough investigation in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile....If the investigation reveals abuse or neglect, the Director shall decide whether immediate removal of the juvenile or any juveniles in the home is necessary for their protection....Unless a petition is filed within five working days after receipt of the report of abuse or neglect, the Director shall give written notice to the person making the report that: (1) There is no finding of abuse or neglect; or (2) The county Department of Social Services is taking action to protect the welfare of the juvenile and what specific action it is taking."
Immunity	7A-550 (1981). "Anyone who makes a report pursuant to this Article, cooperates with the county department of social services in any ensuing inquiry or investigation, testifies in any judicial proceeding resulting from the report,...is immune from any civil or criminal liability that might otherwise be incurred or imposed for such action provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed."
Waiver of Privilege	7A-551 (1981). The privileges between husband and wife or between physician and patient are not grounds for excluding evidence of abuse or neglect.
Central Registry	7A-552 (1981). "The Department of Human Resources shall maintain a central registry of abuse and neglect cases reported under this Article in order to compile data for appropriate study of the extent of abuse and neglect within the State and to identify repeated abuses of the same juvenile or of other juveniles in the family...."
Penalty	None.

NORTH DAKOTA
North Dakota Century Code Annotated

Citation	North Dakota Century Code Annotated, Chapter 50-25.1, "Child Abuse and Neglect," Sections 50-25.1-01 through 50-25.1-14, (1982 and 1983 Supplement).
Purpose Clause	50-25.1-01 (1982). "It is the purpose of this chapter to protect the health and welfare of children by encouraging the reporting of children who are known to be or suspected of being abused or neglected and to encourage the provision of services which adequately provide for the protection and treatment of abused and neglected children and to protect them from further harm."
Reportable Conditions	50-25.1-03 (1982). "... having knowledge of or reasonable cause to suspect that a child coming before him in his official or professional capacity is abused or neglected..."
Definition of Abuse	50-25.1-02.2 (Supp. 1983). "...serious physical harm or traumatic abuse caused by other than accidental means by a person responsible for the child's health or welfare."
Definition of Child	50-25.1-02.2 (Supp. 1983). A person under eighteen years of age.
Nature of Report	50-25.1-03.1 (1982). Mandatory, Nonaccusatory. 50-25.1-03.2 (1982). Voluntary.
Who Reports	50-25.1-03.1 (1982). Practitioners of the medical or mental health professions, schoolteacher, administrator, or counselor, social worker or any other person who works in day care or child care. 50-25.1-03.2 (1982). "Any person having reasonable cause to suspect that a child is abused or neglected..."

Reporting Procedure	50-25.1-04 (1982). Immediately report the harm by oral or written report.
Report to Whom	50-25.1-04 (1982). The division of community services of the department of human services.
Mandated Actions	50-25.1-05 (1982). "The director of the division shall... investigate or cause to be investigated, any initial report of child abuse or neglect...including the home or the residence of the child, and the circumstances surrounding the report of abuse or neglect."
Immunity	50-25.1-09 (1982). "Any person, other than the alleged violator, participating in good faith in the making of a report...is immune from any liability, civil or criminal....[T]he good faith of any person required to report cases of child abuse or neglect shall be presumed."
Waiver of Privilege	50-25.1-10 (1982). "Any privilege of communication between husband and wife or between any professional person and his patient or client, except between attorney and client, is abrogated and does not constitute grounds for preventing a report to be made or for excluding evidence in any proceeding regarding child abuse or neglect..."
Central Registry	None.
Penalty	50-25.1-13 (1982). Willful failure to report a case of known or suspected child abuse is a class B misdemeanor.

OHIO
Ohio Revised Code Annotated

Citation	Ohio Revised Code Annotated, Chapter 2151, "Juvenile Court," Sections 2151.031 through 2151.99, (1976 and 1984 Supplement).
Purpose Clause	None.
Reportable Conditions	2151.421 (Supp. 1984). "having reason to believe that a child...has suffered any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect of the child..."
Definition of Abuse	2151.031 (1976). A victim of sexual activity defined by Chapter 2907, endangered as described under section 2919.22, or shows evidence of any injury or death, inflicted other than by accidental means.
Definition of Child	2151.421 (Supp. 1984). A child under eighteen years of age or "any crippled or otherwise physically or mentally handicapped child under twenty-one years of age..."
Nature of Report	2151.421 (Supp. 1984). Mandatory, Nonaccusatory. 2151.421 (Supp. 1984). Voluntary.
Who Reports	2151.421 (Supp. 1984). Practitioners of the medical or mental health professions, schoolteacher, administrator, counselor, social worker, speech pathologist, audiologist, coroner, day care centers and their workers, or persons rendering spiritual treatment. 2151.421 (Supp. 1984). Any person having reason to believe that a child has suffered any wound, injury, disability, or other condition that reasonably indicates abuse or neglect.

Reporting Procedure	2151.421 (Supp. 1984). "The reports shall be made forthwith by telephone or in person forthwith, and shall be followed by a written report, if requested by the receiving agency or officer."
Report to Whom	2151.421 (Supp. 1984). The children services board or the county department of human services or a municipal or county peace officer.
Mandated Actions	2151.421 (Supp. 1984). "The county department of human services ...shall investigate, within twenty-four hours, ...report each case to a central registry...[and] submit a report of its investigation, in writing to the law enforcement agency."
Immunity	2151.421 (Supp. 1984). "Anyone or any hospital, institution, school, health department, or agency participating in the making of the reports, or anyone participating in a judicial proceeding resulting from the reports, shall be immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of such actions."
Waiver of Privilege	2151.421 (Supp. 1984). "...the physician-patient privilege shall not be a ground for excluding evidence regarding a child's injuries, abuse or neglect, or the cause thereof in any judicial proceeding resulting from a report submitted pursuant to this section."
Central Registry	2151.421 (Supp. 1984). The state department of human services shall maintain a central registry in order to determine whether prior reports have been made in other counties concerning the child.
Penalty	2151.99 (B) (Supp. 1984). Violation of section 2151.421 is a first degree misdemeanor.

OKLAHOMA
Oklahoma Statutes Annotated

Citation	Oklahoma Statutes Annotated, Title 21, Chapter 30, "Miscellaneous Offenses Against Persons," Sections 845 through 848 (1983 and 1984 Supplement).
Purpose Clause	845 (1983). "It is the policy of this state to provide for the protection of children who have had physical injury inflicted upon them and who, in the absence of appropriate reports concerning their condition and circumstances, may be further threatened by the conduct of those responsible for their care and protection."
Reportable Conditions	846.A (1983). "...having reason to believe that a child ... has had physical injury or injuries inflicted upon him or her by other than accidental means where the injury appears to have been caused as as result of physical abuse or neglect...."
Definition of Abuse	845 (1983). "...harm or threatened harm to a child's health or welfare. Harm or threatened harm to a child's health or welfare can occur through: Nonaccidental physical or mental injury; sexual abuse, as defined by state law; or negligent treatment or maltreatment, including the failure to provide adequate food, clothing or shelter."
Definition of Child	845 and 846.A (1983). A person under eighteen years of age.
Nature of Report	846.A (1983). Mandatory, Accusatory.
Who Reports	846.A (1983). Every physician, including residents and interns, registered nurses, dentists and every other person.
Reporting Procedure	846.A (1983). Orally, but reduced to writing as soon as possible.

- Report to Whom** 846.A (1983).
The county office of the Department of Human Services.
- Mandated Actions** 846.A (1983).
"The county office...shall immediately investigate...and forward its findings to the district attorney's office ...with its recommendation as to disposition....
[A] copy of the findings shall be sent to the Child Welfare Division of the Department of Human Services...."
- Immunity** 847 (Supp. 1984).
"Any person participating in good faith and exercising due care in the making of a report pursuant to this act shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed."
- Waiver of Privilege** 848 (Supp. 1984).
"In any proceeding resulting from a report made pursuant to the provisions of Section 846...or in any proceeding where such a report, or contents of the report are sought to be introduced into evidence, such report, contents or other fact related thereto or to the condition of the child or victim who is subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege...."
- Central Registry** 846.A (1983).
The Child Welfare Division of the Department of Human Services is responsible for maintaining a permanent central registry.
- Penalty** 846.A (1983).
Knowing and willful failure to promptly report is a misdemeanor.

OREGON
Oregon Revised Statutes

Citation	Oregon Revised Statutes, Title 34, Chapter 418, "Child Welfare Services," Sections 418.740 through 418.990 (1981).
Purpose Clause	418.745 (1981). "...for the purpose of facilitating the use of protective social services to prevent further abuse, safeguard and enhance the welfare of abused children, and preserve family life when consistent with the protection of the child by stabilizing the family and improving parental capacity, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children."
Reportable Conditions	418.750 (1981). "...having reasonable cause to believe that any child with whom the official comes in contact in an official capacity has suffered abuse, or that any person with whom the official comes in contact in an official capacity has abused a child...."
Definition of Abuse	418.740 (1) (1981). "(a) Any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury. (b) Neglect which leads to physical harm.... (c) Sexual molestation."
Definition of Child	418.740 (2) (1981). An unmarried person under eighteen years of age.
Nature of Report	418.755 (1981). Mandatory, Accusatory.
Who Reports	418.750 (1981). "Any public or private official having reasonable cause to believe that any child with whom the official comes in contact in an official capacity has suffered abuse, or that any person with whom the official comes in contact in an official capacity has abused a child...."

Reporting Procedure	418.755 (1981). Immediate oral report.
Report to Whom	418.755 (1981). "...the local office of the Children's Services Division or to a law enforcement agency within the county where the person making the report is at the time of his contact."
Mandated Actions	418.760 (1981). The Children's Services Division or the law enforcement agency must immediately investigate to determine the cause of the abuse. If the law enforcement agency finds reasonable cause to believe that abuse has occurred, it must notify the local office of the Children's Services Division. The Children's Services Division must provide protective services if necessary to prevent further abuse.
Immunity	418.762 (1981). "Anyone participating in good faith in the making of a report pursuant to 418.750 to 418.760 and who has reasonable grounds for the making thereof, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report."
Waiver of Privilege	418.750 (1981). "Nothing contained in 40.255 to 40.295 shall affect the duty to report imposed by this section, except that a psychiatrist, psychologist, clergyman or attorney shall not be required to report such information communicated by a person if the communication is privileged...."
Central Registry	418.765 (1981). The Children's Services Department shall establish and maintain a central state registry.
Penalty	418.990 (6) (1981). Failure to report is punishable by a fine of \$250.

PENNSYLVANIA
Purdon's Pennsylvania Statutes Annotated

Citation	Purdon's Pennsylvania Statutes Annotated, Title 11, "Children," Chapter 17, "Child Protective Services," Sections 2201 through 2217 (1985 Supplement).
Purpose Clause	2202 (Supp. 1985). "It is the purpose of this act to encourage more complete reporting of suspected child abuse and to establish in each county a child protective service capable of investigating such reports swiftly and competently, providing protection for children from further abuse and providing rehabilitative services for children and parents involved so as to ensure the child's well-being and to preserve and stabilize family life wherever appropriate. However, nothing in this act shall be construed to restrict the recognized existing rights of parents to use reasonable supervision and control when raising their children."
Reportable Conditions	2204 (a) (Supp. 1985). "...reason to believe, on the basis of medical, professional or other training and experience, that a child...is an abused child."
Definition of Abuse	2203 (Supp. 1985). "...serious physical or mental injury which is not explained by the available medical history as being accidental, or sexual abuse or sexual exploitation, or serious physical neglect,...if the injury, abuse or neglect has been caused by the acts or omissions of the child's parents or by a person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent provided, however, no child shall be deemed to be physically or mentally abused...solely on the grounds of environmental factors which are beyond the control of the person responsible for the child's welfare such as inadequate housing, furnishings, income, clothing and medical care."
Definition of Child	2203 (Supp. 1985). A child under eighteen years of age.

Nature of Report	2204 and 2206 (c) (Supp. 1985). Mandatory, Accusatory. 2205 (Supp. 1985). Voluntary.
Who Reports	2204 (a) and (c) (Supp. 1985). "(a) Any persons who in the course of their employment, occupation, or practice of their profession come into contact with children shall report...when they have reason to believe, on the basis of their medical, professional or other training and experience, that a child coming before them in their professional or official capacity is an abused child." "(c) Persons required to report under subsection (a) include, but are not limited to, any licensed physician, medical examiner, coroner, dentist, osteopath, optometrist, chiropractor, podiatrist, intern, registered nurse, licensed practical nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, a Christian Science practitioner, school administrator, school teacher, school nurse, social services worker, day care center worker or any other child care or foster care worker, mental health professional, peace officer or law enforcement official."
Reporting Procedure	2206 (Supp. 1985). "...immediately by telephone and in writing within 48 hours after the oral report."
Report to Whom	2206 and 2216 (a) (Supp. 1985). Report to the child protective service for the county.
Mandated Actions	2217 (Supp. 1985). Receive all reports of suspected child abuse, immediately transmit a child abuse report summary to the Department of Public Welfare, commence within 24 hours an appropriate investigation, notify the subjects of the report in writing, and provide for the protection of the child.

Immunity

2211 (Supp. 1985).

"Any person, hospital, institution, school, facility or agency participating in good faith in the making of a report or testifying in any proceeding arising out of an instance of suspected child abuse...shall have immunity from any liability, civil or criminal, that might otherwise result by reason of such actions.... [T]he good faith of any persons required to report shall be presumed."

Waiver of Privilege

2204 (c) (Supp. 1985).

"The privileged communication between any professional person required to report and his patient or client shall not apply to situations involving child abuse and shall not constitute grounds for failure to report as required by this act."

Central Registry

2214 (a) (Supp. 1985).

"There shall be established...(i) a pending complaint file of child abuse reports under investigation and (ii) a Statewide central register of child abuse, which shall consist of founded and indicated reports of child abuse."

Penalty

2212 (Supp. 1985).

Willful failure to report under mandatory reporting is a summary offense. A second or subsequent offense is a third degree misdemeanor.

RHODE ISLAND
General Laws of Rhode Island

Citation	General Laws of Rhode Island, Titles 40 and 42, Chapter 11, "Abused and Neglected Children," and Chapter 72, "Department for Children and Their Families," Sections 40-11-1 through 40-11-16 and 42-72-7 (1984 and 1984 Supplement).
Purpose Clause	40-11-1 (1984). "The public policy of this state is: to protect children whose health and welfare may be adversely affected through injury and neglect; to strengthen the family and to make the home safe for children by enhancing the parental capacity for good child care; to provide a temporary or permanent nurturing and safe environment for children when necessary; and for these purposes to require the mandatory reporting of known or suspected child abuse and neglect, investigation of such reports by a social agency, and provision of services, where needed, to such child and family."
Reportable Conditions	40-11-3 (Supp. 1984). "...reasonable cause to know or suspect that any child has been abused or neglected...."
Definition of Abuse	40-11-2. (2) (Supp. 1984). An abused or neglected child is one whose physical or mental health is harmed when a parent or person responsible for his welfare inflicts physical or mental injury, creates a substantial risk of physical or mental injury, commits an act of sexual abuse, fails to supply the child with adequate food, clothing, shelter, or medical care if financially able to do so, fails to provide a minimum degree of care, supervision or guardianship because of unwillingness or inability to do so, abandons the child, allows the child to engage in prostitution, or allows pornographic depiction of the child for commercial purposes.
Definition of Child	40-11-2. (1) (Supp. 1984). A person under the age of eighteen.

Nature of Report	40-11-3 and 40-11-6. (2) (Supp. 1984). Mandatory, Nonaccusatory.
Who Reports	40-11-3 (Supp. 1984). "Any person who has reasonable cause to know or suspect that any child has been abused or neglected...."
Reporting Procedure	40-11-6. (2) (Supp. 1984). Immediate oral report followed by a written report that explains the extent and nature of the alleged abuse or neglect.
Report to Whom	40-11-3 (Supp. 1984). Report to the department for children and their families.
Mandated Actions	40-11-7 (Supp. 1984). Investigate each report to determine the circumstances surrounding the abuse and the cause of the abuse, provide services for the child and preserve the family, advise the parent or person responsible for the child of any court action, consequences of court action, and explain the rights of the parents, and forward immediately any reports of institutional child abuse and neglect to the Child Advocate for investigation.
Immunity	40-11-4 (1984). "Any person participating in good faith in making a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report."
Waiver of Privilege	40-11-11 (1984). "The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client, is hereby abrogated in situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required by this chapter."

**Central
Registry****42-72-7 (1984).**

A central registry shall be established which is the main repository for all case files. The registry shall establish forms and standards for collection and transmission of the files.

Penalty**40-11-6.1 (1984).**

Knowing failure to report is a misdemeanor. Any person convicted is subject to a fine of not more than \$500 or imprisonment for not more than one year or both.

SOUTH CAROLINA
Code of Laws of South Carolina 1976

Citation	Code of Laws of South Carolina 1976, Title 20, "Domestic Relations," Chapter 7, "Children's Code," Article 7, Sections 20-7-480 through 20-7-690 (1985).
Purpose Clause	20-7-480 (1985). "Recognizing that abused and neglected children in South Carolina need protection, it is the purpose of this article to save them from injury and harm by establishing an effective reporting system and encouraging the reporting of children in need of protection; by establishing an effective system of services throughout the State to safeguard the well-being and development of endangered children and to preserve and stabilize family life...by establishing...procedures, compatible with due process of law to intervene in family life with due regard to the safety and welfare of all family members and by establishing an effective system of protection of children from injury and harm."
Reportable Conditions	20-7-510 (A) (1985). "...reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect..."
Definition of Abuse	20-7-490 (B) and (C) (1985). An abused or neglected child is one whose physical or mental health is harmed when a parent or person responsible for his welfare inflicts physical or mental injury, creates a substantial risk of physical or mental injury, commits an act of sexual abuse against the child, fails to supply the child with adequate food, clothing, shelter, or medical care if financially able to do so, or abandons the child.
Definition of Child	20-7-490 (A) (1985). A person under the age of eighteen.
Nature of Report	20-7-510 (A) (1985). Mandatory, Nonaccusatory. 20-7-510 (B) (1985). Voluntary.

Who Reports

20-7-510 (A) (1985).

"Any physician, nurse, dentist, optometrist, medical examiner or coroner, or any other medical, mental health or allied health professional, Christian Science practitioner, religious healer, school teacher or counselor, social or public assistance worker, child care worker in any day care center or child caring institution, police or law enforcement officer or any judge having reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect is required to report...."

20-7-510 (B) (1985).

"...any other person who has reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report...."

Reporting Procedure

20-7-510 (C) (1985).

Reports may be made orally.

Report to Whom

20-7-510 (C) (1985).

Report to the county department of social services or to a law enforcement agency.

Mandated Actions

20-7-650 (C) (1985).

The agency shall commence a thorough investigation within twenty-four hours of receipt of a report of abuse to determine whether a report is "indicated" or unfounded." "Copies of indicated investigations of abuse shall be communicated immediately to the statewide Central Registry."

Immunity

20-7-540 (1985).

"Any person required or permitted to report pursuant to this article or who participates in judicial proceedings resulting therefrom, acting in good faith, shall be immune from civil and criminal liability.... In all such civil or criminal proceedings good faith shall be rebuttably presumed."

Waiver of Privilege

20-7-550 (1985).

"The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client or priest and penitent, is abrogated and shall not constitute grounds for failure to report or the exclusion of evidence in any civil child protective proceeding resulting from a report pursuant to this article."

**Central
Registry**

20-7-680 (B) (1985).

"The State Department of Social Services shall maintain a Central Registry of Child Abuse and Neglect within the Department of Social Services child protective services unit.

Penalty

20-7-560 (1985).

Knowing failure to report is a misdemeanor. Any person convicted is subject to a fine of not more than \$500 or imprisonment for not more than six months or both.

SOUTH DAKOTA
South Dakota Codified Laws

Citation	South Dakota Codified Laws, Title 26, "Minors," Chapter 26-10, "Offenses by and Against Minors," Sections 26-10-10 through 26-10-18 (1984).
Purpose Clause	None.
Reportable Conditions	26-10-10 (1984). "...reasonable cause to suspect that a child... has had physical injury or injuries inflicted upon him by abuse or...neglect...."
Definition of Abuse	26-10-10 (1984). A child is abused if he "has had physical injury inflicted upon him by abuse or intentional neglect other than by accidental means, or has been subjected to circumstances or conditions which would reasonably result in abuse or neglect...."
Definition of Child	26-10-10 (1984). A child under the age of eighteen.
Nature of Report	26-10-10 (1984). Mandatory, Nonaccusatory. 26-10-10 (1984). Voluntary.
Who Reports	26-10-10 (1984). "Any physician, surgeon, pathologist, dentist, doctor of osteopathy, chiropractor, optometrist, mental health professional, podiatrist, psychologist, religious healing practitioner, social worker, hospital intern or resident, parole or probation officer, law enforcement officer, teacher, school counselor, school official, nurse, licensed or registered child welfare provider or coroner, having reasonable cause to suspect that a child...has [been abused or neglected]...shall report...." 26-10-10 (1984). "Any person who knows, suspects, or has reason to believe that a child has received physical or emotional injury as the result of abuse or intentional neglect may make a report as provided by law."
Reporting Procedure	26-10-12 (1984). Immediate oral report by telephone or otherwise.

- Report to Whom** 26-10-12 (1984).
Report to the state's attorney of the county in which the child lives or is present, to the department of social services, to the county sheriff, or to the city police.
- Mandated Actions** 26-10-12.1 (1984).
The department of social services, the county sheriff or city police shall investigate upon receipt of a report of child abuse.
- Immunity** 26-10-14 (1984).
"Anyone participating in good faith in the making of a report...under any...provision of this chapter, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed, and shall have the same immunity with respect to participation in any judicial proceeding resulting from such report...."
- Waiver of Privilege** 26-10-15 (1984).
The privileges between school counselor and student, physician and patient, physcotherapist and patient, and husband and wife "may not be claimed in any judicial proceeding involving child abuse or child neglect or resulting from the giving of any report concerning a child's injury or neglect or the cause thereof, pursuant to sections 26-10-10 to 26-10-12...."
- Central Registry** 26-10-12.2 (1984).
The department of social services shall be the central registry for court judgments or orders relating to child abuse.
- Penalty** 26-10-10 (1984).
"Any person who intentionally fails to make a report required of him is guilty of a Class 1 misdemeanor...."

TENNESSEE
Tennessee Code Annotated

- Citation** Tennessee Code Annotated, Title 37, "Juveniles," Part 4, "Mandatory Child Abuse Reports," Sections 37-1-401 through 37-1-401 (1984).
- Purpose Clause** 37-1-402 (a) (1984).
 "The purpose of this part is to protect children whose physical or mental health and welfare are adversely affected by brutality, abuse or neglect by requiring reporting of suspected cases by any person having reasonable cause to believe that such case exists. It is intended that, as a result of such reports, the protective services of the state shall be brought to bear on the situation to prevent further abuses, to safeguard and enhance the welfare of children, and to preserve family life. This part shall be administered and interpreted to provide the greatest possible protection as promptly as possible for children.
- Reportable Conditions** 37-1-403 (a) (1984).
 "...knowledge of or called upon to render aid to any child who is suffering from or has sustained any wound, injury, disability, or physical or mental condition which is of such a nature as to reasonably indicate that it has been caused by brutality, abuse or neglect or which on the basis of available information reasonably appears to have been caused by brutality, abuse or neglect...."
- Definition of Abuse** 37-1-102 (19) (A) and (B) (1984).
 "(A) The knowing exposure of a child to or the knowing failure to protect a child from conditions of brutality, abuse or neglect that are likely to cause great bodily harm or death and the knowing use of force on a child that is likely to cause great bodily harm or death;
 (B) Specific brutality, abuse or neglect towards a child which in the opinion of qualified experts has caused or will reasonably be expected to produce severe psychosis, severe neurotic disorder, severe depression, severe developmental delay or retardation, or severe impairment of the child's ability to function adequately in his environment, and the knowing failure to protect a child from such conduct...."

Definition of Child	37-1-401 (1) (1984). A person under the age of eighteen.
Nature of Report	37-1-403 (a) and (c) (1984). Mandatory, Accusatory.
Who Reports	37-1-403 (a) (1984). "Any person having knowledge of or called upon to render aid to any child who is suffering from or has sustained any wound, injury, disability, or physical or mental condition which is of such a nature as to reasonably indicate that it has been caused by brutality, abuse or neglect or which on the basis of available information reasonably appears to have been caused by brutality, abuse or neglect shall report...."
Reporting Procedure	37-1-403 (a) (1984). Report immediately by telephone or otherwise.
Report to Whom	37-1-403 (a) (1984). Report to the judge having juvenile jurisdiction or to the county office of the Tennessee department of human services or to the sheriff's office or the chief law-enforcement official where the child resides.
Mandated Actions	37-1-406 (1984). The department of human services shall promptly make a thorough investigation after receiving a report of harm and report its findings and recommendations to the juvenile court.
Immunity	37-1-410 (a) (1984). "A person reporting harm shall be presumed to be acting in good faith and shall thereby be immune from any liability, civil or criminal, that might otherwise be incurred or imposed for such action."
Waiver of Privilege	37-1-411 (1984). The privileges between husband and wife, psychiatrist and patient, psychologist and patient are not grounds for excluding evidence regarding harm or the cause of harm reported under 37-1-403.
Central Registry	37-1-408 (1984). The department shall maintain a state central registry and each county office of the department shall maintain a county central registry.
Penalty	37-1-412 (1984). "Any person who knowingly fails to make a report required by 37-1-403 is guilty of a misdemeanor and upon conviction may be fined not more than ...\$50 or imprisoned for not more than...3 months or both."

TEXAS
Texas Codes Annotated (Vernon)

Citation	Texas Codes Annotated (Vernon), Family Code, Title 2, "Parent and Child," Chapter 34, "Report of Child Abuse," Sections 34.01 through 34.08 (1975 and 1985 Supplement).
Purpose Clause	None.
Reportable Conditions	34.01 (1975). "...cause to believe that child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect...."
Definition of Abuse	None.
Definition of Child	11.01 (1) (1975). A person under the age of eighteen who is and has not been married or who has not had his disabilities of minority removed.
Nature of Report	34.01 and 34.02 (a) (1975 and Supp. 1985). Mandatory, Nonaccusatory.
Who Reports	34.01 (1975). "Any person having cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect shall report...."
Reporting Procedure	34.02 (d) (1975). Immediate oral report followed by a written report within five days.
Report to Whom	34.02 (a) (1975 and Supp. 1985). Report to any local or state law enforcement agency and to the Texas Department of Human Resources or the agency designated by the court to be responsible for the protection of children.
Mandated Actions	34.011 and 34.05 (1975 and Supp. 1985). The Texas Department of Human Resources must promulgate a form for the reporting of suspected incidents of child abuse. After receipt of a report, the department must promptly make a thorough investigation. The department must make a complete written report of the investigation and submit the report, with recommendations, to the the juvenile or district court, the district attorney, and the appropriate law enforcement agency if there are sufficient grounds for suit.

Immunity

34.03 (1975).

"Any person reporting pursuant to this chapter is immune from liability, civil or criminal, that might otherwise be incurred or imposed. Immunity extends to participation in any judicial proceeding resulting from the report. Persons reporting in bad faith or malice are not protected by this section."

Waiver of Privilege

34.04 (1975).

"In any proceeding regarding the abuse or neglect of a child or the cause of any abuse or neglect, evidence may not be excluded on the ground of privileged communication except in the case of communications between attorney and client."

Central Registry

34.06 (1975).

"The State Department of Public Welfare shall establish and maintain in Austin, Texas, a central registry of reported cases of child abuse or neglect...."

Penalty

34.07 (a) and (b) (Supp. 1985).

"(a) A person commits an offense if the person has cause to believe that a child's physical or mental health or welfare has been or may be further adversely affected by abuse or neglect and knowingly fails to report in accordance with Section 34.02 of this code.

(b) An offense under this section is a Class B misdemeanor."

UTAH
Utah Code Annotated

Citation	Utah Code Annotated, Title 78, Chapter 3b, "Reporting Child Abuse or Neglect," Sections 78-3b-1 through 78-3b-15 (1983 Supplement and 1985 Supplement).
Purpose Clause	78-3b-1 (Supp. 1983). "It is the purpose of this act to protect the best interests of children, offer protective services to prevent harm to the children, stabilize the home environment, preserve family life whenever possible, and encourage co-operation among the states in dealing with the problem of child abuse.
Reportable Conditions	78-3b-3 (Supp. 1983). "...reason to believe that a child has been subjected to incest, molestation, sexual exploitation or sexual abuse, has been physically abused or neglected or observes a child being subjected to conditions or circumstances which would reasonably result in sexual abuse, physical abuse or neglect...."
Definition of Abuse	78-3b-2 (1) and (2) (Supp. 1983). Harm or threatened harm to a child's health or welfare. Harm or threatened harm is defined as "damage or threatening damage to the physical or emotional health and welfare of a child through neglect or abuse and includes causing non-accidental physical or mental injury, incest, sexual abuse, sexual exploitation, molestation, or repeated negligent treatment or maltreatment."
Definition of Child	78-3b-2 (3) (Supp. 1983). A person under the age of eighteen.
Nature of Report	78-3b-3 (Supp. 1983). Mandatory, Nonaccusatory.
Who Reports	78-3b-3 (Supp. 1983). Any person including but not limited to, persons licensed under the medical practice act, or the nurse practice act.
Reporting Procedure	78-3b-3 and 78-3b-7 (Supp. 1983 and Supp. 1985). Immediately, followed by a written report within 48 hours if requested by the division.

Report to Whom	78-3b-3 (Supp. 1983). The nearest peace officer, law enforcement agency or office of the division of family services.
Mandated Actions	78-3b-3 and 78-3b-8 (Supp. 1983 and Supp. 1985). If abuse or neglect has caused serious injury to the child, the division shall immediately notify the local law enforcement agency. The division shall make a thorough investigation upon receipt of a report of abuse or neglect or when there is reasonable cause to suspect abuse or neglect. A written report of the investigation shall be made to the state central register. The person making the report shall be notified when the investigation is completed.
Immunity	78-3b-9 (Supp. 1983). "Any person, official, or institution participating in good faith in making a report...is immune from any liability, civil or criminal, that otherwise might result by reason of such actions."
Waiver of Privilege	78-3b-13 (4) (Supp. 1983). "The physician-patient privilege shall not be a ground for excluding evidence regarding the minor's injuries or cause thereof in any proceeding resulting from a report made in good faith pursuant to this act."
Central Registry	78-3b-12 (1) (Supp. 1983). "The division shall establish a statewide central registry for child abuse or neglect reports made pursuant to this act."
Penalty	78-3b-10 (Supp. 1985). "Any person, official or institution required to report a case of suspected child abuse or neglect, who willfully fails to do so is guilty of a class B misdemeanor."

VERMONT
Vermont Statutes Annotated

Citation	Vermont Statutes Annotated, Title 33, "Welfare," Chapter 14, "Abuse of Children," Sections 681 through 689 (1984 Supplement).
Purpose Clause	681 (Supp. 1984). "The purpose of this chapter is to: protect children whose health and welfare may be adversely affected through abuse or neglect; to strengthen the family and to make the home safe for children whenever possible by enhancing the parental capacity for good child care; to provide a temporary or permanent nurturing and safe environment for children when necessary; and for these purposes to require the reporting of suspected child abuse and neglect, investigation of such reports and provision of services, when needed, to such child and family."
Reportable Conditions	683 (a) (Supp. 1984). "...reasonable cause to believe that any child has been abused or neglected..."
Definition of Abuse	682 (2) through (4) (Supp. 1984). Harm or threatened harm to a child's health or welfare by acts or omissions of the parent or other person responsible for the child's welfare when they inflict physical or mental injury upon the child, commit sexual abuse against the child, fail to supply the child with adequate food, clothing, shelter or health care, abandon the child, or cause substantial risk of physical or mental injury by other than accidental means which are likely to cause death or serious impairment.
Definition of Child	682 (1) (Supp. 1984). An individual under the age of majority.
Nature of Report	683 (a) and 684 (Supp. 1984). Mandatory, Nonaccusatory. 683 (b) (Supp. 1984). Voluntary.

Who Reports	683 (a) (Supp. 1984). "Any physical, surgeon, osteopath, chiropractor or physician's assistant licensed or registered..., any resident physician, intern, or any hospital administrator in any hospital in this state, whether or not so registered, any registered nurse, licensed practical nurse, medical examiner, dentist, psychologist, school teacher, school librarian, day care worker, school principal, school guidance counselor, mental health professional, social worker, probation officer or police officer..." 683 (b) (Supp. 1984). "Any other concerned person...who has reasonable cause to believe that any child has been abused or neglected..."
Reporting Procedure	684 (Supp. 1984). Orally or in writing.
Report to Whom	684 (Supp. 1984). The commissioner of social and rehabilitation services or his designee.
Mandated Actions	685 (Supp. 1985). Investigate within seventy-two hours after receipt of a report.
Immunity	683 (c) (Supp. 1984). "Any person..., other than a person suspected of child abuse, who in good faith makes a report... shall be immune from any civil or criminal liability which might otherwise be incurred or imposed as a result of making a report."
Waiver of Privilege	None.
Central Registry	686 (a) (Supp. 1984). "The commissioner of social and rehabilitation services shall maintain a registry which shall contain written records of all investigations initiated under section 684 unless the commissioner or his designee determines after investigation that the reported facts are unfounded..."
Penalty	683 (e) (Supp. 1984). Any person required to report who fails to do so is subject to a fine of not more than \$500.

VIRGINIA
Code of Virginia

Citation	Code of Virginia, Title 63.1, "Welfare," Chapter 12.1, "Child Abuse and Neglect," Sections 63.1-248.1 through 63.1-248.17 (1980 and 1984 Supplement).
Purpose Clause	63.1-248.1 (1980). "...it is the policy of this Commonwealth to require reports of suspected child abuse and neglect for the purpose of identifying children who are being abused or neglected, of assuring that protective services will be made available to an abused or neglected child in order to protect such a child and his siblings and to prevent further abuse or neglect, and of preserving the family life of the parents and children, where possible, by enhancing parental capacity for adequate child care."
Reportable Conditions	63.1-248.3 (A) (1980). "...reason to suspect that a child is an abused or neglected child..."
Definition of Abuse	63.1-248.2 (A) (Supp. 1984). An abused or neglected child is one whose parent or other person responsible for his care inflicts or threatens to inflict physical or mental injury other than by accidental means, creates substantial risk of death, disfigurement, neglects or refuses to provide necessary health care, abandons the child, or commits or allows to be committed any sexual act of exploitation or sexual act upon the child that is a violation of law.
Definition of Child	63.1-248.2 (A) (Supp. 1984). Any child less than eighteen years of age.
Nature of Report	63.1-248.3 (A) (1980) Mandatory, Nonaccusatory. 63.1-248.4 (1980). Voluntary.

Who Reports

63.1-248.3 (A) (1984).
 Any person licensed to practice medicine or any of the healing arts, hospital resident or intern, nurse, social worker, probation officer, teacher or other person employed in a public or private school, kindergarten or nursery school, child care worker, duly accredited Christian Science practitioner, mental health professional, law enforcement officer, in his profession or official capacity, and any professional staff person, not previously enumerated that is employed by a state or private hospital, insitituion, or facility which children have been committed to or placed in for treatment.

63.1-248.4 (1980).

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

Reporting Procedure

63.1-248.3 (A) and 63.1-248.4 (1980).
 Orally or in writing.

Report to Whom

63.1-248.3 (A) and 63.1-248.4 (1980).
 Report to the local department of public welfare or social services. If an employee of the local department is suspected of abuse or neglect, report to the juvenile and domestic relations district court.

Mandated Actions

63.1-248.6 (D) (Supp. 1984).
 The local department shall receive and immediately investigate reports of abuse, publicize a telephone number for the receipt of reports twenty-four hours a day, seven days a week, complete a report of the investigation and transmit it to the central registry, arrange for protective and rehabilitative services if necessary, immediately report to the Commonwealth's attorney when abuse or neglect is suspected in cases involving death or injury in which a felony with a penalty of not less than five years imprisonment is suspected or when there is sexual abuse or suspected sexual abuse involving the use or display of the child in sexually explicit material.

Immunity

63.1-248.5 (1980).
 "Any person making a report pursuant to section 63.1-248.3, a complaint pursuant to section 63.1-248.4...or who particiaptes in a judicial proceeding resulting therefrom shall be immune from any civil or criminal liability in connection therewith, unless it is proven that such person acted with malicious intent."

**Waiver of
Privilege**

63.1-248.11 (1980).

"In any legal proceeding resulting from the filing of any report or complaint pursuant to this chapter, the physician-patient and husband-wife privileges shall not apply."

**Central
Registry**

63.1-248.7 (I) (Supp. 1984).

The Child-Protective Services Unit of the Department of Social Services shall maintain a state central registry of all reports of child abuse and neglect.

Penalty

63.1-248.3 (B) (1980).

"Any person required to file a report pursuant to subsection A of this section who is found guilty of failure so to do shall be fined not more than five hundred dollars for the first failure and for any subsequent failures not less than one hundred dollars nor more than more than one thousand dollars."

WASHINGTON
Revised Code of Washington Annotated

- Citation** Revised Code of Washington Annotated, Title 26, "Domestic Relations," Chapter 26.44, "Abuse of Children and Adult Dependent Persons-Protection-Procedure," Sections 26.44.010 through 26.44.900 (1985 Supplement).
- Purpose Clause** 26.44.010 (Supp. 1985).
"The Washington state legislature finds and declares: The bond between a child and his or her parent, custodian, or guardian is of paramount importance, and any intervention into the life of a child is also an intervention into the life of the parent, custodian, or guardian; however, instances of nonaccidental injury, neglect, death, sexual abuse and cruelty to children by their parents, custodians or guardians have occurred, and in the instance where a child is deprived of his or her right to conditions of minimal nurture, health, and safety, the state is justified in emergency intervention based upon verified information; and therefore the Washington state legislature hereby provides for the reporting of such cases to the appropriate public authorities. It is the intent of the legislature that, as a result of such reports, protective services shall be made available in an effort to prevent further abuses, and to safeguard the general welfare of such children: Provided, That such reports shall be maintained and disseminated with strictest regard for the privacy of the subjects of such reports and so as to safeguard against arbitrary, malicious or erroneous information or actions: Provided further, That this chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare and safety."
- Reportable Conditions** 26.44.030 (Supp. 1985).
Reasonable cause to believe that a child has been abused or neglected.
- Definition of Abuse** 26.44.020 (12) (Supp. 1985).
"...injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed thereby..."

Definition of Child	26.44.020 (6) (Supp. 1985). Any person under the age of eighteen.
Nature of Report	26.44.030 (1) and 26.44.040 (7) (Supp. 1985). Mandatory, Nonaccusatory. 26.44.030 (2) (Supp. 1985). Voluntary.
Who Reports	26.44.030 (1) (Supp. 1985). "...any practitioner, professional school personnel, registered or licensed nurse, social worker, psychologist, pharmacist, or employee of the department..." 26.44.030 (2) (Supp. 1985). "Any other person who has reasonable cause to believe that a child or adult dependent person has suffered abuse or neglect..."
Reporting Procedure	26.44.030 (1) and 26.44.040 (Supp. 1985). Immediate oral report followed by a written report if requested. Mandatory reports must be made no more than seven days after there is reasonable cause to believe that a child has been abused or neglected.
Report to Whom	26.44.030 and 26.44.040 (Supp. 1985). To the proper law enforcement agency or the department of social and health services.
Mandated Actions	26.44.030 (3) and 26.44.050 (Supp. 1985). Investigate reports of abuse, report results of the investigation to the protective services division, refer the report to the court if necessary, and report the incident to the proper law enforcement agency if the child has died or has had physical injuries inflicted upon him other than by accidental means or has been sexually abused.
Immunity	26.44.060 (1) (Supp. 1985). "Any person participating in good faith in the making of a report pursuant to this chapter or testifying as to alleged child abuse or neglect in a judicial proceeding shall in so doing be immune from any liability arising out of such reporting or testifying under any law of this state or its political subdivisions."
Waiver of Privilege	26.44.060 (3) (Supp. 1985). "Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of [clergyman-penitent, physician-patient, optometrist-patient, or psychologist-patient]..."

**Central
Registry**

26.44.070 (Supp. 1985).

"The department shall maintain a central registry of reported cases of child abuse... and shall adopt such rules and regulations as necessary in carrying out the provisions of this section..."

Penalty

26.44.080 (Supp. 1985).

"Every person who is required to make, or to cause to be made, a report pursuant to RCW 26.44.030 and 26.44.040, and who knowingly fails to make, or fails to cause to be made, such report, shall be guilty of a gross misdemeanor."

WEST VIRGINIA
West Virginia Code

Citation	West Virginia Code, Chapter 49, Article 6A, "Reports of Children Suspected to be Abused or Neglected," Sections 49-6A-1 through 49-6A-10 (1980 and 1985 Supplement).
Purpose Clause	49-6A-1 (1980). "It is the purpose of this article, through the complete reporting of child abuse and neglect, to protect the best interests of the child, to offer protective services in order to prevent any further harm to the child or any other children living in the home, to stabilize the home environment, to preserve family life whenever possible and to encourage cooperation among the states in dealing with the problems of child abuse and neglect."
Reportable Conditions	49-6A-2 (Supp. 1985). "...reasonable cause to suspect that a child is neglected or abused or observes the child being subjected to conditions that are likely to result in abuse or neglect..."
Definition of Abuse	49-1-3 (Supp. 1985). Harming or threatening to harm a child's health or welfare by a parent, guardian or custodian who knowingly or intentionally inflicts, attempts to inflict, or knowingly allows another person to inflict physical injury, or substantial mental or emotional injury, sexual abuse, sexual exploitation, or excessive corporal punishment.
Definition of Child	49-1-2 (1980). Any person under eighteen years of age.
Nature of Report	49-6A-2 (Supp. 1985). Mandatory, Nonaccusatory. 49-6A-2 (Supp. 1985). Voluntary.
Who Reports	49-6A-2 (Supp. 1985). Any medical, dental or mental health professional, christian science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law enforcement official.

Reporting Procedures	49-6A-5 (Supp. 1985). Immediately by telephone, followed by a written report within forty-eight hours if requested.
Report to Whom	49-6A-5 (Supp. 1985). To the local state department child protective service agency.
Mandated Actions	49-6A-9 (1980). Commence a thorough investigation within twenty-four hours of notification of suspected child abuse.
Immunity	49-6A-6 (1980). "Any person, official or institution participating in good faith in any act permitted or required by this article shall be immune from any civil or criminal liability that otherwise might result by reason of such actions."
Waiver of Privilege	49-6A-7 (1980). "The privileged quality of communications between husband and wife and between any professional person and his patient or client, except that between attorney and client, is hereby abrogated in situations involving suspected or known child abuse or neglect."
Central Registry	None.
Penalty	49-6A-8 (Supp. 1985). "Any person, official or institution required by this article to report a case involving a child known or suspected to be abused or neglected...who knowingly fails to do so, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not more than ten days or fined not more than one hundred dollars, or both."

WISCONSIN
West's Wisconsin Statutes Annotated

Citation	West's Wisconsin Statutes Annotated, Title VI-A, Chapter 48, "Abused or Neglected Children," Section 48.981 (1979 and 1984 Supplement).
Purpose Clause	48.01 (1) (1979). "...This chapter shall be interpreted to effectuate the following express legislative purposes:..." (b) To provide for the care, protection and wholesome mental and physical development of children, preserving the unity of the family whenever possible..."
Reportable Conditions	48.981 (2) (Supp. 1984). "...having reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or having reason to believe that a child seen in the course of professional duties has been threatened with an injury and that abuse will occur..."
Definition of Abuse	48.981 (1) (a) (Supp. 1984). "...any of the following: 1. Physical injury inflicted on a child by other than accidental means. 2. Sexual intercourse or sexual conduct under s. 940.225. 3. A violation of s. 940.203. 4. Permitting or requiring a child to violate s. 944.30. 5. Emotional damage."
Definition of Child	48.981 (1) (b) (Supp. 1984). Any person under 18 years of age.
Nature of Report	48:981 (2) and (3) (a) (Supp. 1984). Mandatory, Nonaccusatory. 48.981 (2) (Supp. 1984). Voluntary.
Who Reports	48.981 (2) (Supp. 1984). Any physician, coroner, medical examiner, nurse, dentist, chiropractor, optometrist, other medical or mental health professional, social or public assistance worker, school teacher, administrator or counselor, child care worker in a day care center or child caring institution, day care provider,

alcohol or other drug abuse counselor, member of the treatment staff employed by or working under contract with a board established under s. 46.23, 51.42 or 51.437, physical therapist, occupational therapist, speech therapist, emergency medical technician, ambulance attendant or police or law enforcement officer .

48.981 (2) (Supp. 1984).

"Any other person including an attorney having reason to suspect that a child has been abused or neglected or reason to believe that a child has been threatened with an injury and that abuse of the child will occur may make...a report."

Reporting Procedure

48.981 (3) (Supp. 1984).

Immediately, by telephone or personally.

Report to Whom

48.981 (3) (Supp. 1984).

To the county agency, sheriff or city police department, and, in the case of American Indian children, the tribal government.

Mandated Actions

48.981 (3) (c) (Supp. 1984).

"Within 24 hours after receiving a report under sub. (3)(a), the county agency shall...initiate a diligent investigation to determine if the child is in need of protection or services..."

Immunity

48.981 (4) (Supp. 1984).

"Any person or institution participating in good faith in the making of a report...under this section shall have immunity from any liability, civil or criminal, that results by reason of the action. For the purpose of any proceeding, civil or criminal, the good faith of any person reporting under this section shall be presumed..."

Waiver of Privilege

905.04 (4) (e) (Supp. 1984) and 905.05 (3) (b) (1979).

(e) "There is no privilege in situations where the examination of an abused or injured child creates a reasonable ground for an opinion of the physician, registered nurse or chiropractor that the condition was other than accidentally caused or inflicted by another."

(b) "There is no privilege....In proceedings in which one spouse or former spouse is charged with a crime against the person or property of the other or a child of either,

or with a crime against the person or property of a 3rd person committed in the course of committing a crime against the other."

**Central
Registry**

None.

Penalty

48.981 (6) (Supp. 1984).
"Whoever willfully violates this section by failure to report as required may be fined not more than \$1,000 or imprisoned not more than six months or both."

WYOMING
Wyoming Statutes Annotated

Citation	Wyoming Statutes Annotated, Title 14, Chapter 3, Article 2, "Children Protective Services," Sections 14-3-201 through 14-3-214 (1978 and 1982 Supplement).
Purpose Clause	14-3-201 (1978). "...protect the best interests of the child, to further offer protective services when necessary in order to prevent any harm to the child or any other children living in the home, to protect children from abuse or neglect which jeopardize their health or welfare, to stabilize the home environment, and to preserve family life whenever possible."
Reportable Conditions	14-3-205 (a) (1978). Abused or neglected children.
Definition of Abuse	14-3-202 (a) (ii) (1978). "Inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means, including abandonment, excessive punishment, malnutrition or substantial risk thereof by reason of intentional or unintentional neglect, and the commission or allowing the commission of a sexual offense against a child as defined by law."
Definition of Child	14-3-202 (a) (iii) (1978). Any person under the age of sixteen.
Nature of Report	14-3-205 (a) (1978). Mandatory, Nonaccusatory.
Who Reports	14-3-205 (a) (1978). Any person.
Reporting Procedure	14-3-206 (a) (1978). "Reports...shall be followed by a written report confirming or not confirming the facts reported."
Report to Whom	14-3-206 (a) (1978). To the local child protective agency, the county department of public assistance and social services or the local law enforcement agency.

Mandated Actions	14-3-204 (a) (ii) (1978). Initiate an investigation and verification of the report within twenty-four hours after notification of the suspected case of child abuse or neglect.
Immunity	14-3-209 (1978). "Any person, official, institution or agency participating in good faith in any act required or permitted...is immune from any civil or criminal liability that might otherwise result by reason of the action. For the purpose of any civil or criminal proceeding, the good faith of any person, official or institution participating in any act permitted or required...shall be presumed."
Waiver of Privilege	14-3-210 (1978). "Any privileged communication between husband and wife or privileged communication claimed by any professional person other than the attorney-client privilege is not a ground for excluding evidence regarding a child in any judicial proceeding resulting from a report made..."
Central Registry	14-3-213 (a) (1978). "The state agency shall establish and maintain within the statewide child protection center a central registry of child protection cases..."
Penalty	None.

APPENDIX B

Number of Children Reported to the North Carolina Central Registry Annually, July 1971 through June 1985¹

Date	Abused		Neglected		Both N & A		Total		Deaths		
	Rpt'd	Conf's	Rpt's	Conf'd	Rpt'd	Conf'd	Rpt'd	Conf'd	A	N	A/N
July 1, 1971-June 30, 1972	1,100	657	5,775	3,740			6,875	4,397	25	3	
July 1, 1972-June 30, 1973	1,602	746	8,462	5,351			10,064	6,097	10	13	
July 1, 1973-June 30, 1974	1,900	711	9,572	4,987			11,278	5,635	8	11	
July 1, 1974-June 30, 1975	1,946	1,050	9,331	4,724			11,277	5,774	13	12	
July 1, 1975-June 30, 1976	2,112	1,068	10,547	4,984	1,309	221	13,968	6,273	4	9	
July 1, 1976-June 30, 1977	2,180	987	9,415	5,047	3,916	320	15,511	6,354	8	2	
July 1, 1977-June 30, 1978	3,426	1,389	13,268	5,267	1,989	780	18,686	7,438	7	5	
July 1, 1978-June 30, 1979	3,589	1,548	14,505	6,175	2,110	900	20,204	8,623	4	6	
July 1, 1979-June 30, 1980	4,831	1,910	18,452	7,855	2,711	1,126	25,994	10,891	6	7	3
July 1, 1980-June 30, 1981	5,093	1,963	19,970	8,451	2,454	1,007	27,518	11,421	6	4	2
July 1, 1981-June 30, 1982	5,301	1,956	19,417	8,141	2,263	864	26,981	10,961	4	5	4
July 1, 1982-June 30, 1983	5,586	1,839	19,444	8,792	2,187	672	27,217	11,103	3	4	1
July 1, 1983-June 30, 1984	6,289	1,915	17,756	7,922	2,156	535	26,201	10,372	5	8	3
July 1, 1984-June 30, 1985	7,393	2,078	17,930	7,942	2,302	634	27,625	10,554	1	3	0

¹North Carolina Central Registry, Child Protective Services, Raleigh, N.C.

APPENDIX C

APPENDIX C

**Outline Of A Model Child Abuse And
Neglect Policy For Schools¹**

Policy	Procedures
STATEMENT OF SCHOOL SYSTEM COMMITMENT TO MALTREATED CHILDREN AND FAMILIES.	<ul style="list-style-type: none"> . Disseminate school board statement. . Define areas of child abuse and neglect. . Recognize parent feelings and rights.
REPORTING REQUIREMENTS THAT REFLECT STATE LAW.	<ul style="list-style-type: none"> . Publish legal requirements, with immunities and liabilities. . Provide in oral and written form. . Designate reporting responsibility. . Appoint an internal coordinator and outline specific procedural action. . Identify a feedback/follow-up system.
INSERVICE TRAINING AND STAFF DEVELOPMENT PROGRAMS.	<ul style="list-style-type: none"> . Appoint a training team. . Select training materials. . Plan a schedule of inservice events. . Offer education incentives.
DESIGNATION OF SCHOOL PERSONNEL TO COLLABORATE WITH THE COMMUNITY MULTI-DISCIPLINARY CHILD ABUSE AND NEGLECT CASE CONSULTATION TEAM.	<ul style="list-style-type: none"> . Appoint a school representative/liaison on the case consultation team. . Designate school personnel who can be used in advisory capacity. . Specify attendance procedures for case-related personnel.

¹Dinae D. Broadhurst, The Educator's Role in the Prevention and Treatment of Child Abuse and Neglect. Dept. of Health and Human Services, National Center on Child Abuse and Neglect, DHHS Pub. OHDS 84-30172. Washington: Government Printing Office, 1984, p. 2.

Policy	Procedures
IDENTIFICATION OF SCHOOL/ COMMUNITY RESOURCES AS SUPPORT SERVICES.	<ul style="list-style-type: none">. Assess available resources.. Publish a list of service providers and programs with eligibility requirements.. Establish or utilize existing school-based teams for program planning.
PROMOTION OF PRIMARY PREVENTION PROGRAMS.	<ul style="list-style-type: none">. Authorize schools to sponsor parent education programs.. Initiate a public awareness effort.. Designate school facilities to be used for family support services.. Develop parent education curriculum at secondary level.
