



MANDATED CHILD ABUSE REPORTERS: HOW TO KNOW WHEN REPORTING IS REQUIRED FOR ADVOCATES

In Minnesota, sexual assault advocates are mandated to report the abuse or neglect of a child by “certain persons” in caregiving roles to the child. Failure to do so when required is a crime. See Minn. Stat. §626.556

Who is a Mandatory Reporter	<ul style="list-style-type: none"> • A professional or professional’s delegate who is engaged in (among other things) the practice of the healing arts, social services, or psychological treatment. Sexual assault advocates should fall into one of these categories, making them mandatory reporters.
What Must Be Reported:	<ul style="list-style-type: none"> • Physical or sexual abuse or neglect of a child by certain persons when that abuse/neglect has occurred within the past 3 years, or 10 years for multiple victims
Sexual Abuse	<ol style="list-style-type: none"> 1. Sexual abuse is: when certain persons subject a child to an act of sexual contact or penetration or threaten the same: <ul style="list-style-type: none"> Those certain persons are (not necessarily adults): <ul style="list-style-type: none"> ▪ A “person responsible for the child’s care” - a person functioning within the family unit with responsibilities similar to a parent or guardian, OR a person outside the family unit with duties of the child’s care such as school employees and other short-term caregivers such as babysitters, counselors, or coaches ▪ A “significant relationship” - an immediate or extended family member, or an adult residing in the same home ▪ A “position of authority” - a person acting in the place of a parent, or having the responsibility for the health, welfare, or supervision of a child no matter how briefly The behavior mandating a report is: <ul style="list-style-type: none"> ▪ Sexual contact – touching or having someone else touch the child’s intimate parts (genital, groin, inner thigh, buttocks or breast) with sexual or aggressive intent ▪ Sexual penetration – sexual intercourse, cunnilingus, fellatio, or anal intercourse, or any intrusion however slight into the genital or anal openings of the child by any body part or object of the actor, or having the child commit these acts upon the actor
Physical Abuse	<ol style="list-style-type: none"> 2. Physical abuse is: mental, or threatened injury inflicted by a “person responsible for the child’s care” other than by accident. Physical or mental injury that cannot be reasonably explained by the child’s history of injuries is also included as reportable physical abuse. <ul style="list-style-type: none"> ▪ Physical abuse is <i>not</i> reasonable and moderate physical discipline of a child administered by a parent or legal guardian not resulting in injury, nor the use of reasonable force by a school employee as permitted by law.
Neglect	<ol style="list-style-type: none"> 3. Neglect is: <ul style="list-style-type: none"> ▪ Failure by a “person responsible for the child’s care” to supply a child with necessary food, clothing, shelter, health, medical, or other care

required for the child's physical or mental health

- Failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health
- Failure to provide necessary supervision or child care arrangements considering factors involving the child's ability to care for herself and failure to ensure the child's education.

Where do I report?

- Local welfare agency, police, sheriff, or agency responsible for investigating the report.

When and how must I report?

- **Immediately** report by telephone suspicions of abuse or neglect upon knowing or having reason to believe that it has happened within the preceding **3** years
- **Immediately** report by telephone suspicions of abuse or neglect upon knowing or having reason to believe that one perpetrator has abused 2 or more unrelated children within the preceding **10** years
- Follow the telephone call by a written report within 72 hours
- Mandated reporter must make the report *herself*. Referring the issue to a supervisor is not sufficient
- When in doubt about whether the incident was already reported, report it. There is nothing prohibiting multiple reports of the same incident.

Why must I report?

- Failure to report when mandated is a misdemeanor if it is the **3** year scenario above, or a gross misdemeanor if it is the **10** year scenario.

For Example:

- A 15 year old client tells you she is having sexual intercourse with her 20 year old boyfriend. When you tell her that this is illegal, she refuses to report to the authorities.

As it relates to the boyfriend, this is not a mandatory reporting situation because he does not fit into the "certain persons" categories described above. You will be violating your duty of confidentiality to the girl if you report the boyfriend against her wishes, and an advocacy agency would not serve the community as well if it earned a reputation for betraying confidences.

For Example:

- Remember that mandatory reporting probably involves information you learn both on and off the job.

You have a neighbor child who is 8 years old and has come to like and trust you, although neither he nor his mother know that you are an advocate. He reports to you that his mother's live-in boyfriend "sometimes makes me touch his pee-pee."

Even though you discovered this information through your personal life rather than your job, you are mandated to report to the proper authorities what you have heard. You are not *required* to advise the mother, but should use your judgment about whether to tell her what you heard from her son or that you reported it.

Remember that it is not your role to decide whether the suspected abuse or neglect is valid or "true" before reporting it. You must report when you "know or have reason to believe" that a child was abused or neglected.

For Example:

You are contacted by a woman who wants information about counseling for her 17 year old niece, as the niece told her mother (the caller's sister) that a coach at school touched her sexually. The mother does not believe her daughter and has refused to report to the authorities, but the aunt has called you for information to get the girl into counseling. She gives you the name and address of the 17 year old.

This is a mandatory reporting situation, even though the information comes to you third-hand and is sketchy. You need not be sure that the abuse happened, but only "have reason to believe." A child who says she was abused or neglected is "reason to believe," and it is up to law enforcement or social services to investigate whether the complaint is "true."

What Can I do?

- Remember that mandated reporting always involves the relationship between the child and the abuser or neglecter: reporting is only mandated when the abuser has some sort of a caregiver role to the child as specified above
- Remember that parental or guardian neglect might include allowing the child to remain at risk of physical or sexual abuse by another.
- Remember that you have a duty of confidentiality towards your clients. You may not disclose information obtained from and about your clients against their wishes, and may not report sexual assault against their wishes unless it is a mandatory reporting situation.
- Remember that it is not the duty of the advocate to investigate or collect factual information about any given situation, but rather only to report when the situation presents itself.
- Each advocacy agency should have a system or policy available to advocates in the event that a report becomes necessary, and it is advisable that supervisory staff for the advocate be made aware when she makes a report.
- When questions about mandatory reporting arise, advocates should contact the local child protection office for advice, keeping identities private.

See the reverse side for tip sheet on mandatory reporting from the booklet, *Consent and Confidentiality*, published by Hennepin County Medical Center.

Kaarin Long - Staff Attorney
Sexual Violence Justice Institute
420 North 5th Street, Suite 690
Minneapolis, MN 55401
612.313.2797 or 800.964.8847
kaarin@mncasa.org