

Social Workers: Know Your Responsibilities

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updated for changes that go into effect October 2017

	Language from Statute	Other Notes	Legal Citation
Reporting Child Maltreatment	<p>Reason to believe</p> <p>All persons are required to report suspected child maltreatment and may report anonymously</p> <p>Health Practitioners and Human Service Workers:</p> <ul style="list-style-type: none"> ▪ Mandated to report directly to the Local Department of Social Services and must notify the head of their institution, ▪ Required to report orally – “immediately after contact or event” <u>and</u> in writing no later than 48 hours after the suspicion ▪ In state and out-of-state reporting required 	<p><i>Social Workers</i> are defined in law as a Health Practitioner in Health Occupations Article, Title 19. <i>Human Service worker</i> is defined as: “any professional employee of any correctional, public, parochial or private educational, health, juvenile service, social or social service agency, institution or licensed facility.” FL§ 5-701 (g)</p> <p>Statewide listing of contact numbers to report on website of Department of Human Services (DHS): http://dhr.maryland.gov/child-protective-services/reporting-suspected-child-abuse-or-neglect/local-offices/</p>	<p>Civil law: Family Law § 5-705</p> <p>Family Law § 5-704</p>
Failing to Report Suspected Child Maltreatment or Vulnerable Adult	<p>Board of Social Work Examiners (BSWE) may deny a license to any applicant, fine a licensee, reprimand, place licensee on probation, or suspend or revoke any license if the applicant or licensee fails to report.</p>	<p>All persons are mandated to report, however, if you hold a professional license (medical providers, social worker, educators) there are licensing sanctions for failing to report.</p>	<p>Social workers: Health Occupations Article §19-311 (12), (14), (18)</p>
Child Physical Abuse	<p>Child abuse is:</p> <ul style="list-style-type: none"> ▪ Sustaining of physical injury ▪ of a child under age 18 ▪ under circumstances that indicate child's health or welfare is harmed or at substantial risk of being harmed ▪ by a parent; household member or family member; person who has permanent or temporary care or custody; a person who has responsibility for supervision of a child; OR a person who, because of their position or occupation, exercises authority over the child 	<p>Injury does not have to be visible.</p> <p>Abuse does not include injury by accidental means (if resulted from accidental and unintended contact and was not reckless 07.02.07.11C)</p> <p>Criminal law: defines child abuse as physical injury as a result of cruel or inhumane treatment or as a result of a malicious act. Up to 15yrs or 30 if child dies as a result.</p>	<p>Civil law: Family Law § 5-701 (b)(1)</p> <p>Criminal law: Criminal Law §3-601</p>
Child Sexual Abuse	<p>Child sexual abuse is:</p> <ul style="list-style-type: none"> ▪ Any act involving sexual molestation or exploitation ▪ of a child under age 18 ▪ by a parent; household member or family member; person who has permanent or temporary care or custody; a person who has responsibility for supervision of a child; OR a person who, because of their position or occupation, exercises authority over the child 	<p>Does NOT require physical injury</p> <p><i>Sexual molestation or exploitation</i> is “sexual contact or conduct with a child, includes, but is not limited to exposure, voyeurism, sexual advances, kissing or fondling, grooming for sexual activity, sexual crime in any degree, rape, sodomy, prostitution, or allowing, encouraging or engaging in obscene or pornographic display, photographing, filming or depiction of a child as prohibited by law, or sex trafficking.” COMAR 07.02.07.02 (51)</p>	<p>Civil law: Family Law § 5-701 (b)(2)</p> <p>Criminal laws: Criminal Law §3-602; §11-203; §11-207; §11-208; §3-303; §3-312</p>

Substantial Risk of Sexual Abuse	MAY report when, reason to believe that a parent, guardian or caregiver of a child allows the child to reside with or be in the regular presence of an individual who is registered for the commission of a sexual offense against a child AND based on additional information, poses a substantial risk of sexual abuse	Reporting is permissible / NOT mandatory. “Offender” includes individual other than the child’s parent or guardian.	Civil law: Family Law § 5-704.1
Child Neglect	Child neglect is: <ul style="list-style-type: none"> ▪ Failure to give proper care attention, including leaving of a child unattended ▪ under Child under age 18 ▪ by parent, other person who has permanent or temporary care or custody or responsibility for supervision of the child ▪ under circumstances that indicate child's health or welfare is harmed or placed at substantial risk of being harmed. 	Civil law provides more protection than FL §5-801 (the criminal law) entitled <i>Confinement in dwelling, building, enclosure, or motor vehicle</i> ” Fine of up to \$500 and/or imprisonment up to 30 days. Criminal law defines neglect as “the intentional failure to provide necessary assistance and resources for the physical needs or mental health of a minor that creates a substantial risk of harm to the minor's physical health or substantial risk of mental injury to the minor. \$5000 fine and/or 5 yrs. includes household and family members	Civil law: Family Law § 5-701 (s) Criminal law: Criminal Law § 3-602.1
Mental Injury - Abuse	Mental injury- abuse is <ul style="list-style-type: none"> ▪ Observable, identifiable, and substantial impairment of a child's mental or psychological ability to function ▪ caused by an intentional act or series of acts, regardless of whether there was an intent to harm the child ▪ caused by an act ▪ of a parent, or other person who has permanent or temporary care or custody or responsibility for supervision of the child (caretaker) or household or family member ▪ child under age 18 at the time of the incident ▪ under circumstances that indicate child's health or welfare is harmed or at substantial risk of being harmed 	Need information that clearly links substantially impaired functioning of a child to behavior of the parent/caretaker. Law requires CPS investigation to include an assessment by two licensed mental health providers. Policy provides examples of mental injury that are covered by statute.	Civil law: Family Law § 5-701 (b)(1) and (r) Policy DHR/ SSA 95-6 COMAR 07.02.07.08 C
Mental Injury - Neglect	Mental injury – neglect is <ul style="list-style-type: none"> ▪ Observable, identifiable, and substantial impairment of a child's mental or psychological ability to function ▪ caused by an intentional act or series of acts, regardless of whether there was an intent to harm/failure to provide proper care and attention ▪ of a parent, or other person who has permanent or temporary care or custody or responsibility for supervision of the child ▪ child under age 18 at the time of the incident ▪ under circumstances that indicate mental injury to the child or a substantial risk of mental injury 	Need information that clearly links substantially impaired functioning of a child to behavior of the parent/caretaker. Law requires CPS investigation to include an assessment by two licensed mental health providers. Policy provides examples of mental injury that are covered by statute.	Civil law: Family Law §5 -701 (s)(2)and(r) Policy DHR SSA 95-6 COMAR 07.02.07.08 C

<p>Adult Discloses They were Maltreated as a Child</p>	<p>AG Opinion: “FL §§ 5-704 and 5-705 require reporting whenever there is reason to believe that child abuse or neglect occurred in the past, even if the alleged victim is an adult when the incident comes to light...even if the alleged abuser is believed to be deceased.”</p>	<p>SSA Policy: Circular Letter 95-14, written for LDSS staff as guidance and is still in effect. The focus of the CPS investigation is to determine whether children in the household or care of alleged maltreater are currently in need of protection; not to validate abuse or neglect of the individual who is now an adult. Reporter MAY protect/withhold the source of their information when making the reporting.</p>	<p>Opinion of Attorney General No. 93-049 December 3, 1993 COMAR 07.02.07.06 H</p>
<p>Vulnerable Adult</p>	<p>Every human service worker who has reason to believe that a vulnerable adult has been subject to abuse, neglect, self-neglect or exploitation has a duty to report the suspected maltreatment to: the local department of social services and if the reporter is a staff member of a hospital or public health agency, to the head of the institution or the designee of the head. Vulnerable adult: persons aged 18 or over who lack the physical or mental capacity to provide for their daily needs.</p>	<p>All human service workers are mandated to report; however, any person may report. Statewide listing of contact numbers to report may be found at DHS website: www.dhr.maryland.gov/oas/protect.php</p>	<p>Civil law: Family Law §14-302 Criminal law: Criminal Law § 3-604, §3-605</p>
<p>Duty to Warn</p>	<p>If a mental health care provider knows about a patient’s propensity for violence, and the patient has indicated to the mental health care provider by speech, conduct or writing, of an intent to inflict imminent physical injury upon a specified victim or group of victims, the mental health care provider may discharge his duty to warn by informing the appropriate law enforcement agency and, if feasible, the specific victim or victims of: the nature of the threat; the identity of the patient making the threat; the identity of the specified victim or victims.</p>	<p>There is no statute entitled “duty to warn.” The statute in Maryland that covers this issue is entitled “Subtitle 6 Immunities and Prohibited Actions-Health and Public Safety / Mental Health Care Providers or Administrators.”</p>	<p>Courts and Judicial Proceedings §5-609</p>
<p>Immunity of Person Making Report</p>	<p>Immunity from civil liability or criminal penalty</p> <ul style="list-style-type: none"> ▪ Any person who makes a report, ▪ participates in making a report, or ▪ participates in an investigation or resulting judicial proceeding 	<p>Immunity applies to reporters who make reports concerning children and vulnerable adults.</p>	<p>Family Law § 5-708 and Family Law §14-309</p>
<p>Requirement to Disclose Information</p>	<p>A health care provider must disclose a medical record with or without consent of the recipient, parent, guardian or custodian to the LDSS or multidisciplinary team for purposes of investigation OR to whom services are being provided.</p>	<p>“Medical Record” is defined in MD statute in Health General § 4-301 (h) to include mental health records.</p>	<p>Health General § 4-306</p>
<p>Immunity When Disclosing Information to LDSS</p>	<p>Immunity from civil liability & criminal penalty are provided for health care providers who disclose information to LDSS personnel or multidisciplinary team for the purposes of investigation or treatment in a case of suspected abuse or neglect of a child.</p>	<p>When the report is made in “good faith.”</p>	<p>Health General § 4-308</p>

To look up specific Maryland statues go to <http://www.lexisnexis.com/hottopics/mdcode/> and for COMAR <http://www.dsd.state.md.us/COMAR/ComarHome.html>