



# Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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## Child Abuse or Neglect Reporting

Under Ohio law, mandatory reporters are required, and any other person is permitted, to report known or suspected child abuse or neglect to a public children services agency or peace officer. Ohio law provides a process for making reports of child abuse or neglect and protects reporter confidentiality.

### Contents

Mandatory reporting of child abuse or neglect.....	1
Mandatory reporters.....	2
Permissive reporting of child abuse or neglect .....	4
Making the report.....	4
Mandatory reports .....	4
Permissive reports.....	5
How reports are made .....	5
Report follow-up .....	5
Confidentiality.....	6
Investigations.....	6

### Mandatory reporting of child abuse or neglect

Ohio law requires any person designated as a mandatory reporter who is acting in an official or professional capacity to immediately report any knowledge or reasonable suspicion of child abuse or neglect. For reporting purposes, a child is a person under 18, or a person under 21 with a developmental disability or physical impairment. The reporting requirement applies regarding any child who has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child.<sup>1</sup>

<sup>1</sup> R.C. 2151.421(A)(1)(a).

## Mandatory reporters

Ohio law designates the following professions as mandatory reporters:<sup>2</sup>

Mandatory Reporters	
Attorneys	Health care professionals
Practitioners of a limited branch of medicine	Licensed school psychologists
Independent marriage and family therapists or marriage and family therapists	Coroners
Child daycare center administrators or employees	Administrators or employees of a residential camp, child day camp, or private, nonprofit therapeutic wilderness camp
Administrators or employees of a certified child care agency or other public or private children services agency	School teachers, employees, and authorities
Peace officers	Humane society agents, dog wardens, deputy dog wardens, or other persons appointed to act as a municipal or township animal control officer
Persons, other than clerics (see below), rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion	County department of job and family services employees who are professionals and work with children and families
Superintendents or regional administrators employed by the Department of Youth Services	Superintendents, board members, or employees of, or investigative agents contracted by, a county board of developmental disabilities
Department of Developmental Disabilities employees	Employees of a facility or home that provides respite care to a person with developmental disabilities
Employees of an entity that provides homemaker services	Employees of a qualified organization for host families
Host families	Foster caregivers

<sup>2</sup> R.C. 2151.421(A)(1)(b).

Mandatory Reporters	
Persons performing the duties of an assessor for foster care or adoption	Third parties employed by a public children services agency to assist in providing child- or family-related services
Court-appointed special advocates	Guardians ad litem

### **Acting in an official or professional capacity**

Ohio statutes do not define “acting in an official or professional capacity.” However, the courts have held that a plain reading of the phrase means that a mandatory reporter who was not acting in his or her professional capacity when learning of allegations, but rather learned of the allegations from personal friends or family and as a private citizen, is not legally obligated to report the allegations.<sup>3</sup>

### **Duty to report cannot be delegated**

The duty to report child abuse or neglect is imposed on a mandatory reporter because of the relationship between the child and the reporter acting in an official or professional capacity. A mandatory reporter often has direct responsibility for the care, custody, or control of children in one form or another and, as a result, has a unique position to encounter and identify abused or neglected children. Because the relationship is the reason for mandatory reporter status, it is also the reason that the duty to report cannot be delegated to others: The mandatory reporter is in the best position to protect the child through reporting. In addition, the law does not expressly provide for delegation to others. The only exception to this is where two or more health care professionals care for the same child. In that case, the health care professionals are mandatory reporters and may only designate one of the professionals to report the abuse or neglect.<sup>4</sup>

### **Exceptions to reporting requirements**

Attorneys and physicians are not required to make a report concerning communications they receive from a client or patient in an attorney-client or physician-patient relationship, if it is protected by civil or criminal testimonial privilege, unless the client or patient is deemed to have waived testimonial privilege.<sup>5</sup>

<sup>3</sup> See, e.g., *State v. Walker*, 2006-Ohio-4637, ¶23 (6<sup>th</sup> Dist., Lucas Cnty., September 8, 2006); *State v. Simms*, 2005-Ohio-6934, ¶20-21 (7<sup>th</sup> Dist., Columbiana Cnty., December 23, 2005); and *State v. Rosenberger*, 90 Ohio App.3d 735, 739 (9<sup>th</sup> Dist., Summit Cnty., October 20, 1993).

<sup>4</sup> R.C. 2151.421(A)(1)(b) and (c); see, *Yates v. Mansfield Bd. of Edn.*, 102 Ohio St.3d 205, ¶30 (2004) and *Crenshaw v. Columbus City Sch. Dist. Bd. of Edn.*, 2008-Ohio-1424, ¶15 (10<sup>th</sup> Dist., Franklin Cnty., March 27, 2008).

<sup>5</sup> R.C. 2151.421(A)(2) and (3).

## Clerics as reporters of child abuse or neglect

Clerics<sup>6</sup> and other persons (except volunteers) who are both (1) designated to act as leaders, officials, or delegates by and on behalf of their church, religious society, or faith and (2) acting in an official or professional capacity, are required to make a report of known or suspected child abuse or neglect when the person knows or has reasonable cause to believe, based on facts that would cause a reasonable person in a similar position to believe, that:

- a. There is abuse or neglect of a child that has occurred or is occurring; and
- b. The abuse or neglect is caused by or is threatened to be caused by another cleric or another person (except a volunteer), who is designated to act as a leader, official, or delegate by and on behalf of his or her church, religious society, or faith.<sup>7</sup>

The clerics' reporting requirements do not apply regarding any communication received from a penitent in a cleric-penitent relationship, the disclosure of which is in violation of the sacred trust or that is protected by the penitent's civil or criminal testimonial privilege, unless the penitent is deemed to have waived the privilege.<sup>8</sup>

A "sacred trust" is a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, if the confession or confidential communication was made (1) directly to the cleric and (2) in the manner and context that places the cleric specifically and strictly under a level of confidentiality considered inviolate by canon law or church doctrine.<sup>9</sup>

## Permissive reporting of child abuse or neglect

Anyone else who knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar circumstances to suspect, that a child is being or has been abused or neglected may report or cause reports to be made of the known or suspected abuse or neglect.<sup>10</sup>

## Making the report

### Mandatory reports

A mandatory reporter must immediately make his or her report to the public children services agency (PCSA) or a peace officer in the county where the child resides or where the abuse or neglect is occurring or has occurred. A PCSA is a county agency that administers child welfare services. In some counties, the PCSA is a children services board. In others, the county

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<sup>6</sup> "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect (R.C. 2151.421(A)(4)(e) and 2317.02(C)(2)(a)).

<sup>7</sup> R.C. 2151.421(A)(4)(a).

<sup>8</sup> R.C. 2151.421(A)(4)(b), (c), and (d).

<sup>9</sup> R.C. 2151.421(A)(4)(e) and 2317.02(C)(2)(b).

<sup>10</sup> R.C. 2151.421(B).

department of job and family services serves that role. A county also may designate another government agency or a private entity. For a child who is an inmate in the custody of a state correctional institution, reports are to be made to the State Highway Patrol. If the mandatory reporter is a peace officer, the peace officer reports to the PCSA.

A mandatory reporter may take photographs of areas of trauma visible on a child, or cause them to be taken. If medically necessary, the mandatory reporter may perform or cause medical examinations, tests, or procedures on the child. A health care professional may also conduct medical examinations, tests, or procedures on the siblings of a child about whom a mandatory report is being made or other children residing in the same home. The results and available reports must be included in the report. Any additional reports of examinations, tests, or procedures that become available must be provided to the PCSA, upon request.<sup>11</sup>

### **Permissive reports**

A permissive reporter may report known or suspected child abuse or neglect to a PCSA or a peace officer, or to the State Highway Patrol if the child is an inmate in the custody of a state correctional institution.<sup>12</sup>

### **How reports are made**

Mandatory and permissive reports must be made by telephone or in person, and must be followed by a written report, if requested by the receiving PCSA or officer. The written report must contain the names and addresses of the child, the child's parents or custodian, the child's age, and the nature and extent of the child's known or suspected injuries, abuse, or neglect, and any other information that might be helpful in establishing the cause of the injury, abuse, or neglect.<sup>13</sup>

### **Report follow-up**

A mandatory reporter may make a reasonable number of requests for information on the report and the child subject to the report. The reporter may request the information of the PCSA that receives or is referred the report or that is conducting the investigation, or of the children's advocacy center<sup>14</sup> that is referred the report. The PCSA or center may inform the reporter: whether an investigation was initiated and is continuing, or whether the PCSA or center is otherwise involved with the child; the general status of the child's health and safety; and whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

The mandatory reporter may request the information only if, at the time the report is made, the reporter provides his or her name, address, and telephone number to the person

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<sup>11</sup> R.C. 2151.421(A)(1)(a), (b), and (D)(1), (2), and (4), 5120.173, 5153.01(A), and 5153.02.

<sup>12</sup> R.C. 2151.421(B) and 5120.173.

<sup>13</sup> R.C. 2151.421(C).

<sup>14</sup> A "children's advocacy center" is a center operated by entities within a county or contiguous counties to perform services regarding reports of alleged sexual or other type of abuse of a child, as specified in the memorandum of understanding that creates the center (R.C. 2141.425(A)).

receiving the report. When a peace officer or PCSA employee receives a report from a mandatory reporter, the report's recipient must inform the reporter of the right to request information.

If the reporter provides his or her name and contact information on making the report, the PCSA must send a written notice via U.S. mail or electronic mail, in accordance with the reporter's preference, to the reporter no later than seven calendar days after both of the following:

- Receipt of the report, to provide the reporter the status of the PCSA's investigation into the report, who the reporter can contact at the PCSA for further information, and a description of the reporter's rights under Ohio law; and
- On closing the investigation into the case, to notify the reporter that it has closed the investigation.

A health care professional who made a report or was one of a group of health care professionals making a single report, may authorize a person associated with or acting on the professional's behalf to follow up regarding the report.<sup>15</sup>

## Confidentiality

A report of child abuse or neglect is confidential. The reporter's name and any information provided in the report cannot be released for use or used as evidence in any civil action or proceeding brought against the reporter. However, if a person brings a civil action or proceeding against a mandatory reporter for allegedly failing to report known or suspected child abuse or neglect, the person may use reports of other incidents. In that case, information in those other reports that identifies the child or the person who made the report (if the person is not the defendant or the defendant's agent or employee) must be redacted.

In criminal proceedings, however, the report is admissible in evidence according to the Ohio Rules of Evidence and is subject to discovery under the Ohio Rules of Criminal Procedure.<sup>16</sup>

Additionally, a PCSA must disclose confidential information discovered during a child abuse or neglect investigation to any federal, state, or local government entity, including an appropriate military authority, that needs the information to carry out its responsibilities to protect children from abuse or neglect.<sup>17</sup>

## Investigations

For information about PCSAs' investigations of reports, see the LSC [Investigating Child Abuse and Neglect Reports \(PDF\)](#) *Members Brief*, which is available on LSC's website: [lsc.ohio.gov](http://lsc.ohio.gov).

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<sup>15</sup> R.C. 2151.421(K).

<sup>16</sup> R.C. 2151.421(I)(1) and (M).

<sup>17</sup> R.C. 2151.423.