

# Reporting of Child Abuse and The Child Protective Services Law of Pennsylvania



## *What Church Personnel, Teachers, and Volunteers Need to Know About the New Requirements*

### **Introduction**

New amendments to the Child Protective Services Law (CPSL) take effect on May 28, 2007 in Pennsylvania. These amendments establish important requirements for those who work with children in reporting suspected child abuse. The amendments also make failure to report child abuse a crime.

This brochure is a summary of recommendations issued by the Pennsylvania Catholic Conference. It is the Conference's understanding of the mandates of the CPSL and how Church personnel can comply with the law.

It is important to remember that "child abuse" is not limited to sexual abuse alone. It includes inflicting or creating an imminent risk of physical injury, mental injury, sexual abuse, or harmful physical neglect. A "child" is any individual who is under the age of 18.

Adherence by Church personnel in the Diocese of Pittsburgh to the expanded reporting mandates is a vital part of the Church's efforts to prevent the abuse of children. **The Diocese of Pittsburgh urges that all Church personnel resolve any questions about the interpretation of the law in favor of reporting.**

### **Those who are mandated as reporters under the law**

- The CPSL imposes the child abuse reporting mandate on any individual who comes into contact with children in the course of his or her work or professional practice and has "reasonable cause to suspect" that the minor has been abused.
- Among the occupations specifically listed in CPSL as mandated reporters are many associated with

Catholic institutions: clergy, teachers, day-care personnel, social service workers, school administrators, school nurses, foster-care workers, health care personnel and mental health workers.

- Other types of Church personnel who should be considered mandated reporters are parish and school administrative personnel, music ministers, child-care personnel, youth ministers, athletic coaches, food service personnel, classroom aides and playground monitors.
- Non-paid and voluntary personnel who perform services for the Church should also consider themselves to be mandated reporters if they come into contact with children during the course of their volunteer Church work.
- The reporting mandate is restricted to those children with whom the mandated reporter comes into contact through work or through the institution with which the reporter is associated. The abused child must actually be "under the care, supervision, guidance or training of [the mandated reporter] or of an agency, institution, organization or other entity with which that person is affiliated."
- Examples of children considered by the CPSL to be under the care or supervision of a Church entity would include school and CCD students, children enrolled in child-care programs, children being "babysat" during worship services or gatherings, children participating in Church-related youth ministries or sports programs, Catholic Charities' clients and health care patients.



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- A mandated reporter need not make a first-hand observation of the suspected child abuse victim. Second-hand reports of abuse must be reported to the proper authorities if the mandated reporter has “reasonable cause to suspect” that child abuse has occurred.

### Important clarifications to the law

- The CPSL specifically grants legal immunity to any individual who, in good faith, makes a report of suspected child abuse.
- Members of the clergy are not permitted by Church law and are not required by Pennsylvania law to report information received privately during sacramental confession or spiritual counseling.
- The mandate to report applies to all suspected child abuse, not just abuse that has been perpetrated by Church personnel. Possible abusers could include, for example, parents, relatives, older siblings, neighbors, youth group or sports leaders, family friends and other children.

### General reporting procedures

Church personnel should make the required reports whenever they have any cause to suspect that child abuse has occurred.

Those who serve in staff positions in any Church-related institution are obligated to immediately notify the person in charge of the institution when child abuse is suspected. It then becomes the obligation of the person in charge of the institution to see to it that a report is made to the proper civil authorities.

Reports of child abuse are to be made **immediately** to the 24-hour Child Abuse Hot Line. The toll-free number is **1-800-932-0313**.

A written report is to be made within 48 hours of the telephone report and sent to the child protective services agency in the county in which the abuse occurred. Guidelines for the written report are available from the Department of Public Welfare (DPW). While an online copy of the DPW form for making a written report has not been available to date on DPW web sites, one private web site does contain a copy of the form. See:

<http://www.pennsylvaniafamilysupportalliance.org/cy47.pdf>.

The administrator making the report to the civil authorities should promptly notify the staff personnel who brought the matter to the attention of the institution that a report has been made.

The addresses and phone numbers of the county children and youth agencies throughout the Commonwealth are found at this web site:

<http://www.dpw.state.pa.us/Child/ChildAbuseNeglect/003670355.aspx>

The Pennsylvania Department of Public Welfare’s web page relating generally to the reporting of Child Abuse can be found at:

<http://www.dpw.state.pa.us/Child/ChildAbuseNeglect/003671030.htm>

### Reporting of abuse by school employees

While school employees and administrators (which include pastors who oversee parochial schools) are required to follow the general reporting mandates of the CPSL, they are also subject to different reporting procedures when the perpetrator is another individual who works in the school.

School employees are required to report to their school administrator if they suspect that a student has been abused by a fellow school employee. The school administrator is then required to immediately report the suspected abuse to both local law enforcement officials and to the district attorney.

If the suspected perpetrator is the administrator to whom the report would ordinarily be made, then the school employee is to bypass the administrator and immediately report the suspected abuse to both local law enforcement officials and to the district attorney.

Abuse by a school employee should also be reported to the 24-hour Child Line and to the county child protective services agencies.

### Frequently asked questions

#### **When does a mandated reporter have “reasonable cause to suspect” that child abuse has occurred?**

Neither the Child Protective Services Law (CPSL) nor the Regulations of the Pennsylvania Department of Public Welfare (DPW) offer a definition of the term. There are a multitude of facts and circumstances that will vary with each situation, but the declared purpose of the CPSL is to encourage prompt and complete reporting, so as to

assure the well-being of children. Therefore, in keeping with the spirit of both the CPSL and of the USCCB *Charter for the Protection of Young People*, it is more prudent to err on the side of making the report and then depending on the trained professionals to determine what has actually transpired.

**Can I be sued for making a report that turns out to be wrong?** The CPSL grants immunity from civil suits for those who make a “good faith” report of suspected child abuse. If the reporter is truly motivated by concern for the safety of the victim, and for the safety of others who may be exposed to the suspected perpetrator, the reporter’s good faith will be presumed under the CPSL.

**What is the legal definition of “child abuse”?** Child abuse can be one of several different things:

1. Non-accidental *physical injury* that causes severe pain, or that significantly impairs the child’s physical functioning, even temporarily;
2. Non-accidental clinically-diagnosable *mental injury* that renders the child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic, unable to perform age-appropriate developmental and social tasks, or in reasonable fear that his or her life or safety is threatened;
3. Any type of *sexual abuse* or *sexual exploitation* (such as inducing a child to engage in sexual acts or to be photographed in simulating sexual acts, even if the child “consents” to the acts); or
4. Serious *physical neglect* which endangers a child’s life or development or impairs the child’s functioning, but which does not arise solely from the financial inability of the parents to provide adequate housing, clothing and medical care. Child abuse also occurs when an individual places a child in imminent risk of serious physical injury or sexual abuse or exploitation.

**Are non-paid volunteers required to report?** The CPSL does not limit the reporting mandate to “employees.” Therefore, if volunteers come into contact with children in the course of their Church “occupation,” they should assume they will be treated as a mandated reporter.

**Are multiple individuals required to make a report regarding the same incident?** No. However, each mandated reporter who knows of a reportable incident should assure himself or herself that a report has actually been made.

**Am I required to report child abuse that I suspect only while on Church duty?** No. You are a mandated reporter of child abuse for incidents involving children who

are under the supervision, guidance or training of the Church entity with which you are affiliated, regardless of whether you learned of the abuse while either on or off duty.

**Am I required to report only those incidents of child abuse that I suspect to have occurred on Church property?** No. If the suspected abuse involves children who are under the supervision, guidance or training of the Church entity with which you are affiliated, you must report it regardless of where the suspected abuse occurred. Therefore, for example, child abuse that occurs in the home of a Catholic school student is a reportable incident.

**To whom should I speak if I have doubts about the obligation to report?** Your supervisor, in the first instance. Supervisors will be aware of how to contact the proper individuals in Diocesan administration who can help resolve any doubts. But all consultation should be carried out promptly, since the CPSL requires reports to be made “immediately.”

**What are the criminal penalties for failing to make a legally mandated report?** Any mandated reporter who “knowingly” fails to report child abuse commits a misdemeanor of the third degree for a first violation, and a misdemeanor of the second degree for any subsequent violation. The maximum penalty for a misdemeanor of the third degree is imprisonment for one year. The maximum penalty for a misdemeanor of the second degree is imprisonment for two years.

**Am I still required to report when I learn of the abuse only after the victim is now over 18 and is therefore no longer a “child”?** Neither the CPSL nor the DPW Regulations address this question. However, in the interest of preventing further abuse by the same perpetrator, a report should be made under these circumstances. The CPSL only protects until the child’s 18th birthday. However, reports are received by the county agency and Childline until the age of 20 for situations of abuse that occurred before reaching age 18. After that, a referral to law enforcement officials may be an option.

**Is abuse perpetrated by other children reportable?** Yes, if it is sexual abuse (even arguably “consensual sex” between two minors), or if it causes serious physical or mental injury to the victim. Causing serious mental injury can include placing the victim in fear that his or her life or safety is threatened. School personnel are especially cautioned to be alert for physical assaults, inappropriate sexual contact and severe bullying that may constitute “abuse” under the CPSL.