



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

CHILD ABUSE REPORTING IN GEORGIA

Purpose of the Georgia Reporting Requirements

Reporting suspected child abuse is encouraged, and in certain situations, mandatory, to provide for the protection of children whose health and welfare are threatened by individuals responsible for their care and protection. Reporting provides the state with an opportunity to intervene, protect the child from further abuse, and attempt to mitigate the adverse effects on the child's welfare and family life.

What is "Child Abuse?"

"Child abuse" is the subjection of individuals under the age of 18 to certain abusive behaviors, as listed below. "Caretakers" are those responsible for the welfare of the child and may include persons other than parents, including employees of private and public schools.

The State of Georgia considers the following to be child abuse, as listed under O.C.G.A. § 19-7-5(b)(3):

- Physical injury or death inflicted upon a child by a parent or caretaker, not by accidental means;
 - *Note:* physical forms of discipline are permitted, however, as long as there is no physical injury to the child.
- Neglect or exploitation of a child by a parent or caretaker;
- Sexual abuse of a child; or
- Sexual exploitation of a child.

Evidence of abuse has been found in, but is not limited to, the following situations:

- Human bites
- Broken bones
- Malnutrition
- Unusual injuries to a child's body and genital area
- Cigarette burns

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- Hot water burns
- Failing to seek medical attention for serious injury
 - *Note:* Refusal to seek medical care based on a valid religious belief does not constitute abuse.
- Discipline of a child using excessive force

The Division of Family & Children Services (DFCS) has provided several common signs that a child is being or has been abused:

- Often left home alone;
- In the neighborhood for long periods without supervision;
- Frequently hungry;
- Dressed inadequately for the weather;
- Absent from school frequently;
- Bruised or has other marks of physical violence;
- Withdrawn or overly aggressive; or
- Not receiving needed medical attention.

Who Can Report Child Abuse vs. Who Must Report Child Abuse?

Anyone who suspects child abuse may and should report child abuse. Persons in certain professions or who volunteer with certain types of organizations, as listed below, are **required by law** to report suspected child abuse (“Mandatory Reporters”). Persons other than those listed below are not required by law to report suspected abuse (“Non-Mandatory Reporters”), but are encouraged to do so in the same manner as Mandatory Reporters.

The following persons (“Mandatory Reporters”) MUST report when there is reasonable cause to believe that a child has been abused:

- Physicians licensed to practice medicine, interns, or residents;
- Hospital or medical personnel or volunteers;
- Dentists;
- Licensed psychologists and persons participating in internships to obtain licensing;

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- Podiatrists;
- Registered professional nurses, licensed practical nurses, and nurses' aides;
- Professional counselors, social workers, or marriage and family therapists;
- School teachers;
 - *Note:* "School" means any public *or private* pre-kindergarten (including day care), elementary school, secondary school, technical school, vocational school, college, university, or institution of postsecondary education.
- School administrators or volunteers;
- School guidance counselors, visiting teachers, school social workers, or school psychologists;
- Child welfare agency personnel or volunteers;
- Child-counseling personnel or volunteers;
- Child service organization personnel or volunteers;
 - *Note:* This can include any organization that serves children. "Child service organization personnel" means anyone employed by or volunteering at a business or an organization, whether public, private, for profit, not for profit, or voluntary, that provides care, treatment, education, training, supervision, coaching, counseling, recreational programs, or shelter to children. By way of example, church Sunday schools, summer camps, and recreational sports leagues would all fall under this definition. Anyone who works with or volunteers at these types of programs is required by law to report suspected child abuse.
- Law enforcement personnel;
- Reproductive health care facility or pregnancy resource center personnel or volunteers; or
- Members of the clergy.
 - *Note:* A member of the clergy is not required to report child abuse reported *solely* within the context of confession or other similar communication required to be kept confidential under church doctrine or practice. Nevertheless, when a clergy member receives information about child abuse from any other source, the clergy member must report it, even if he or she also received a report of the abuse from the confession of the abuser.

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Reporting Procedures

WHO Should Report:

- ***Any person who believes a child is being abused or may have been abused may and should report the suspected child abuse.***
- When a **Mandatory Reporter** (persons who fall into one of the categories listed above) suspects child abuse, the following reporting procedures must be followed.
- When a **Non-Mandatory Reporter** suspects child abuse, he or she is not required to follow the exact procedures listed below. Following the same procedures as a Mandatory Reporter is helpful, however, as it is likely to lead to a quick response. The sooner the authorities know about potential abuse, the sooner they can move to help the child.

WHEN and WHERE to Report:

- If the child is in **immediate danger** (for example, the child has obviously been beaten, is in danger of physical violence, or is left alone overnight), the reporting individual should call the police **immediately**.
- If the child is not in immediate danger, an oral report (by telephone or otherwise) must be made **immediately or within 24 hours** to the Division of Family & Child Services (DFCS) office in the county where the child lives (*see link* under “Internet Resources” below for a list of DFCS county offices).
- If there is no appropriate DFCS office to notify, an oral report should instead be made to the **police** or the **district attorney** in the county where the child lives (*see link* under “Internet Resources” for a list of district attorneys) within the same immediate 24-hour window.

HOW to Report:

- If the Mandatory Reporter is a **staff member** of a hospital, school, social agency, or similar facility, that individual must notify **the person in charge of such facility or other designated person**.
 - The person in charge of the facility or other designated person must then report or cause a report to be made to the DFCS county office, police, or district attorney.
 - The person in charge of the facility or other designated person must not attempt to control, restrain, modify, or alter the reported information in any way. The person in charge may, however, consult with the original reporter to acquire any additional, relevant, or necessary information for the report.
- A Mandatory Reporter who makes an **oral report** to the DFCS county office, police, or district attorney must also submit a **written report** to the authority as soon as possible. Non-Mandatory Reporters are encouraged to follow these procedures, as well.
- **The oral and written reports must contain:**
 - The names and addresses of the child and the child’s parents or caretakers;

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- The child's age;
- The nature and extent of the child's injuries, including any evidence of previous injuries; and
- Any other information that the reporting person believes might be helpful in determining the cause of the injuries and the identity of abuser.
- **Reports are confidential** and those who call do not have to give their names, although it is most helpful to the child for the reporting individual to provide his or her name and address and, if necessary, testify in court at a later date.
- **Photographs of the child's injuries** may be taken without the permission of the child's parent or guardian to support reports of abuse made by hospital staff, physicians, law enforcement personnel, school officials, or staff of legally mandated public or private child protective agencies. These photographs should be submitted **as soon as possible** to the DFCS county office and to the appropriate police authority.

WHAT Happens Next:

- Where the DFCS agency has reasonable cause to believe such report is true, or where the report contains allegations or evidence of child abuse, DFCS must then immediately notify the police or district attorney.
- The DFCS, police, or district attorney will then determine the appropriate course of action.

Protection for Reporters

Immunity from Civil and Criminal Liability:

- Any person who suspects child abuse is entitled to report or cause a report to be made to the appropriate authorities. As long as the reporter acts upon either (1) a **good faith belief** that a child has been abused, OR (2) a **reasonable cause to believe** that a child has been abused, he or she is immune from any civil or criminal liability that would otherwise be incurred or imposed as a result.

What is a "Good Faith Belief"?

- "Good faith" is the opposite of "bad faith." If "bad faith" cannot be shown, the reporter will retain immunity. "Bad faith" generally involves actions or behavior intended to mislead or deceive another person, or the neglect or refusal to carry out a duty due to a questionable motive. An honest mistake, negligence, or bad judgment in reporting will not trigger liability *unless* accompanied by a dishonest or improper purpose.
 - If bad faith is shown as the motive behind making a report, the reporter will **still be immune** from civil and criminal liability if the objective, factual basis of the report establishes reasonable cause for the reporter's belief that a child has been abused.

What is a "Reasonable Cause to Believe"?

- "Reasonable cause to believe" that a child has been abused means that the information and facts available at the time of the report would lead a reasonable person in the reporter's position to suspect abuse.

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What is Covered under Immunity?

- Immunity means that a civil or criminal action may not be brought against a reporter for harm resulting from reporting suspected child abuse. Immunity from civil and criminal liability is not limited to the initial report of abuse, and extends to every person who, in good faith, participates over time in reporting suspected abuse to a child welfare agency. This includes participation in any subsequent judicial proceedings or in any investigations performed by or on behalf of a child welfare agency.

Reporting Otherwise Confidential Information:

- Mandatory Reporters must report suspected child abuse if there is reasonable cause to believe a child has been abused, regardless of the existence of otherwise privileged or confidential information (for example, doctor-patient confidentiality).
- A member of the clergy is not required to report child abuse reported *solely* within the context of confession or other similar communication required to be kept confidential under church doctrine or practice. Nevertheless, when a clergy member receives information about child abuse from any other source, the clergy member must report it, even if he or she also received a report of the abuse from the confession of the abuser.

Failure to Report for Mandatory Reporters:

- A Mandatory Reporter who *knowingly and willingly* fails to report suspected child abuse is guilty of a criminal misdemeanor.
- If a Mandatory Reporter *merely* fails to discover and report suspected child abuse, it does not mean the professional is liable to the child for future acts of abuse that may occur. The Mandatory Reporter must *knowingly and willingly* fail to report suspected child abuse for criminal liability, in the form of a misdemeanor, to result.
- Nevertheless, a Mandatory Reporter who fails to report suspected child abuse is not subject to private civil causes of action. No civil liability will result from failure to report.

Privacy of Reports:

- Reports of child abuse or related information will not be made available to the public *unless*:
 - There is a criminal or civil court proceeding that has been brought based on the facts regarding abuse that are alleged in the reports.
 - An individual or entity is performing legitimate research for educational, scientific, or public purposes. In this situation, all names and addresses of those involved, including the reporter(s), will be removed from the record.

Internet Resources

Complete list of all DFCS offices, arranged by county:

<http://dfcs.dhs.georgia.gov/portal/site/DHS-DFCS/menuitem.76e501556de17147077a8110da1010a0/?vgnnextoid=8eb92b48d9a4ff00VgnVCM100000bf01010aRCRD>

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Complete list of District Attorneys, arranged by last name:
http://www.pacga.org/find/da_listing.pdf

DFCS Information about Child Protective Services:
<http://dfcs.dhs.georgia.gov/portal/site/DHS-DFCS/menuitem.5d32235bb09bde9a50c8798dd03036a0/?vgnextoid=213a2b48d9a4ff00VgnVCM100000bf01010aRCRD>

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