

Clergy Duty to Report Child Abuse and Neglect As Mandated Reporters

The Michigan Child Protection Law (CPL) requires that mandated reporters report suspected child abuse and neglect to the Department of Human Services (DHS). Clergy became mandated reporters when the CPL was amended effective March 1, 2003. There are civil and criminal penalties for failing to file a report. However, there are no penalties for reports made in good faith.

What must you report?

- Physical abuse = non-accidental injury to a child by a parent, legal guardian, or any other adult responsible for the child's health or welfare. Actions that may constitute physical abuse include but are not limited to burning, beating, kicking, or punching. If a child has injury (burns, bruises, broken bones, welts, etc.) as a result of any of these actions, this constitutes physical abuse. Spanking is not physical abuse unless the child suffers welts, marks or bruises as a result.
- Neglect = harm or threatened harm by the child's parent, legal guardian or caretaker where this individual fails to provide adequate food, clothing, shelter or medical care. If the child is suffering or is negatively affected by as a result of these basic needs not being met, this constitutes neglect. Neglect also occurs if a caretaker places a child at risk or fails to protect a child from known or potential risk of harm. As long as the caretaker intervened to protect the child or eliminate the risk, neglect has not occurred.
- Sexual abuse = engaging in sexual contact with a child under the age of 18. Sexual exploitation is also sexual abuse and occurs when a caretaker allows, permits or encourages a child to engage in prostitution or in the photography, filming, or depicting of a child engaged in a sex act.
- Maltreatment = treating a child in a way that is cruel or makes the child suffer in ways that a reasonable person would consider excessive (such as: a child who is afraid of the dark being locked in a dark closet, forcing a child to eat animal food, teaching a child to engage in criminal activity such as drug sales or shoplifting, public humiliation by making the child wear a sign that he/she wets the bed).

You are not expected to memorize the various forms of abuse or neglect, but it is helpful to be aware of what they are.

Who should you report to?

Children's Protective Services (CPS) in the county where the child resides verbally and in writing. Your written report may be in the form of a letter provided it has sufficient information for CPS to be able to locate the child and alleged perpetrator. You could also file a DHS-3200. If you believe a child is in immediate danger, notify local law enforcement.

Should you "investigate" the situation prior to filing a report?

No, legally only CPS and law enforcement may investigate allegations of abuse and neglect. You may ask the child or adult questions but only for the limited purpose of

understanding the situation. You may not ask probing questions or question a child in such a manner that would make them uncomfortable or make them feel as though they have done something wrong by disclosing to you. You may not “investigate” to determine whether you should file a report to CPS or if your actions would interfere with CPS or law enforcement investigations.

How do you know if you’re doing the right thing?

Trust your instincts and err on the side of the child. If you feel that the child is in need of protection or is otherwise suffering, file a report.

Will you be provided with information about your complaint to CPS?

Yes, DHS policy requires that CPS notify mandated reporters in writing of their decision. If the complaint will not be investigated, notice must be sent within five working days of deciding not to investigate. You will receive a letter that includes the date you filed the report, a CPS log number, and a statement that says the complaint was not investigated. If the complaint was investigated, you must be notified within ten working days from the date the investigation is completed. You will receive a letter that includes the date you filed the report, a CPS log number, and a statement that says whether there was a preponderance (evidence of abuse or neglect) or no preponderance of evidence in support of your complaint. However, by law, the written notification must not include the child or alleged perpetrator’s name.

What if the legal duty to report conflicts with the church safety policy?

The CPL does not prevent clergy from supporting a family when CPS or law enforcement is investigating allegations of abuse or neglect as long as you do not interfere with the investigations. However, there are no exceptions in the CPL that permit a church safety policy to circumvent or otherwise conflict with the duty to report; therefore, church safety policies must conform to the law.

Note: DHS has a useful, 13-page publication entitled, “*Mandated Reporter’s Resource Guide*” that goes into more detail regarding the areas discussed above, in addition to confidentiality, outcomes to CPS investigations, and miscellaneous issues. It can be printed from the internet at: www.michigan.gov/documents/DHS-MandatedReportersGuide_119708_7.pdf.

This information was compiled by Charlotte J. Smith, J.D., Intake Investigator with the State of Michigan’s Office of Children’s Ombudsman (OCO). Department of Human Services policy and Mandated Reporter’s Guide were used as resources. The OCO is an independent state agency responsible for investigating cases handled by DHS and private child-placing agencies in the areas of children’s protective services, foster care, and adoption. For more information about the OCO please see our website: www.michigan.gov/oco.

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The Addition of Clergy as Mandated Reporters of Suspicions of Child Abuse and Neglect in Michigan

In March 2003 the Michigan Legislature amended the state's Child Protection Law (CPL) [**Public Act 238 of 1975**] by adding "members of the clergy" as people who are now mandated by law to report suspicions of abuse or neglect of a child to Children's Protective Services [**MCL 722.623 Sec. 3**]. "Members of the clergy" is defined in the law [MCL 722.622 Sec. 2(l)] as a "*priest, minister, rabbi, Christian science practitioner, or other religious practitioner, or similar functionary of a church, temple, or recognized religious body, denomination, or organization.*" The amendment became effective in April 2003. The CPL is available on line at www.michigan.gov/dhs/0,1607,7-124-5452_7119_7194-15404--,00.html. From this page you may click on the link to the CPL.

The Child & Family Resource Council in Kent County has put together a booklet entitled, "**Child Abuse and Neglect: A Guide for Mandated Reporters**" that is available to download at: <http://www.childresource.cc/resources.htm> (slide the bar on the far right about halfway down the page). The booklet is a useful resource in explaining child abuse and neglect and the process of how these complaints are handled. It is 39 pages in length. Although specific to Kent County, the information is very helpful.

To report suspicions of child abuse or neglect, mandated reporters must first call and file an oral complaint with the Department of Human Services Children's Protective Services (CPS) office in the county where the child may be found or resides. The phone numbers for all CPS offices in the State of Michigan can be found by clicking "County Offices" on the far left sidebar found at www.michigan.gov/dhs. Next, choose the child's county on the map.

The second action required of mandated reporters is to follow up with a written complaint. Mandated reporters may use either the DHS-3200 form or a written report with the specific information detailed in the Child Protection Law [see 722.623 Sec. 3(2)]. The DHS 3200 is available by downloading a copy at www.michigan.gov/documents/FIA3200_11924_7.pdf.

The written report or form 3200 must then be mailed to the same county CPS office where the oral complaint was made.

Please be aware that mandated reporters are not required to prove that their suspicions are true; that is the responsibility of CPS and/or law enforcement.

This information was compiled by Charlotte J. Smith, J.D., Intake Investigator with the State of Michigan's Office of Children's Ombudsman (OCO). The OCO is an independent state agency responsible for investigating cases handled by DHS and private child placing agencies in the areas of children's protective services, foster care, and adoption. For information about the OCO please see our website www.michigan.gov/oco.