Arkansas

Child Abuse and Neglect

Definitions of Child Abuse and Neglect

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Physical Abuse

Citation: Ann. Code § 12-18-103

'Abuse' means:

- Extreme or repeated cruelty to a child
- Engaging in conduct creating a realistic and serious threat of death, permanent or temporary disfigurement, or impairment of a bodily organ
- An injury that is at variance with the history given
- Any nonaccidental physical injury
- Any of the following acts with physical injury:
  - Throwing, kicking, burning, biting, or cutting a child
  - Striking a child with a closed fist
  - Shaking a child
  - Striking a child on the face or head
- Any of the following acts with or without physical injury:
  - Striking a child age 6 or younger on the face or head
  - Shaking a child age 3 or younger
  - Interfering with a child's breathing
  - Pinching, biting, or striking a child in the genital area
  - Tying a child to a fixed or heavy object or binding or tying a child's limbs together
  - Giving a child or permitting a child to consume or inhale a poisonous or noxious substance not prescribed by a physician that has the capacity to interfere with normal physiological functions
  - Giving a child or permitting a child to consume or inhale a substance not prescribed by a physician that has the capacity to alter the mood of the child, including, but not limited to, marijuana, alcohol for use other than during a recognized and established religious ceremony, a narcotic, or an over-the-counter drug if a person purposely administers an overdose or an inappropriate drug and the child is detrimentally affected
- Exposing a child to dangerous chemicals including, but not limited to, a chemical used or generated during the manufacture of methamphetamine
- Subjecting a child to Munchausen syndrome by proxy or a factitious illness by proxy if the incident is confirmed by medical personnel

Neglect

Citation: Ann. Code § 12-18-103

'Neglect' means failure or refusal to:

- Prevent abuse of the child when the person knows or has reasonable cause to know the child is or has been abused
- Provide necessary food, clothing, shelter, and education required by law, or medical treatment necessary for the child's well-being
- Take reasonable action to protect the child from abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness when the existence of the condition was known or should have been known
- Provide for essential and necessary physical, mental, or emotional needs of the child, including the failure to provide a shelter that does not pose a risk to the health or safety of the child
- Provide for the child's care and maintenance, proper or necessary support, or medical, surgical, or other necessary care

This is summary information, not the full statutory text. Be sure to check your state's statutes for the most current and complete information for mandated reporters in your state.
• Assume responsibility for the care and custody of the child or to participate in a plan to assume such responsibility
• Appropriately supervise the child that results in the child being left alone at an inappropriate age or in inappropriate circumstances creating a dangerous situation or a situation that puts the child at risk of harm

'Neglect' shall also include:
• Causing a child to be born with an illegal substance in the child's bodily fluids or bodily substances as a result of the pregnant mother knowingly using an illegal substance before the birth of the child
• At the time of the birth of a child, the presence of an illegal substance in the mother's bodily fluids or bodily substances as a result of the pregnant mother knowingly using an illegal substance before the birth of the child
  o An 'illegal substance' is a drug that is prohibited to be used or possessed without a prescription.
  o A test of the child's or the mother's bodily fluids or bodily substances may be used as evidence to establish neglect.

Sexual Abuse/Exploitation
Citation: Ann. Code § 12-18-103

'Sexual abuse' means:
• By a person age 10 or older to a person younger than age 18:
  o Sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion
  o Attempted sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion
  o Indecent exposure
  o Forcing the watching of pornography or live sexual activity
• By a person age 18 or older to a person not his or her spouse who is younger than age 16:
  o Sexual intercourse, deviate sexual activity, or sexual contact
  o Attempted sexual intercourse, deviate sexual activity, or sexual contact
• By a caregiver to a person younger than age 18:
  o Sexual intercourse, deviate sexual activity, or sexual contact
  o Attempted sexual intercourse, deviate sexual activity, or sexual contact
  o Forcing or encouraging the watching of pornography
  o Forcing, permitting, or encouraging the watching of live sexual activity
  o Forcing the listening to a phone sex line
  o An act of voyeurism
• By a person younger than age 10 to a person younger than age 18:
  o Sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion
  o Attempted sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion

'Sexual contact' means an act of sexual gratification involving:
• Touching, directly or through clothing, the sex organs, buttocks, or anus of a person or the breast of a female
• Encouraging of a child to touch the offender in a sexual manner
• The offender requesting to touch a child in a sexual manner

'Sexual exploitation' means:
• Allowing, permitting, or encouraging participation or depiction of the child in prostitution, obscene photography, or obscene filming
• Obscenely depicting, posing, or posturing a child for any use or purpose

Emotional Abuse
Citation: Ann. Code § 12-18-103

The term 'abuse' includes acts or omissions that result in injury to a child's intellectual, emotional, or psychological development, as evidenced by observable and substantial impairment of the child's ability to function within the child's normal range of performance and behavior.
Abandonment
Citation: Ann. Code § 12-18-103

‘Abandonment’ means:

- Failure of the parent to provide reasonable support and to maintain regular contact with the child through statement or contact, when the failure is accompanied by an intention on the part of the parent to permit the condition to continue for an indefinite period in the future
- Failure to support or maintain regular contact with the child without just cause
- An articulated intent to forgo parental responsibility

Standards for Reporting
Citation: Ann. Code § 12-18-402

A report is required when there is reasonable cause to suspect that a child has been subjected to child maltreatment.

Persons Responsible for the Child
Citation: Ann. Code § 12-18-103

Responsible persons include:

- A parent, guardian, or custodian
- A foster parent
- A person age 18 or older living in the child’s home, whether related or unrelated
- A person who is entrusted with the child's care, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible for the child’s welfare

Exceptions
Citation: Ann. Code § 12-18-103

Abuse does not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes of restraining or correcting the child.
Abuse shall not include when a child suffers transient pain or minor temporary marks as the result of an appropriate restraint if:

- The person exercising the restraint is an employee of an agency licensed or exempted from licensure under the Child Welfare Agency Licensing Act.
- The agency has policy and procedures regarding restraints.
- No alternative exists to control the child except for a restraint.
- The child is in danger or hurting himself or herself or others.
- The person exercising the restraint has been trained properly in restraining children, de-escalation, and conflict resolution techniques.
- The restraint is for a reasonable period of time.
- The restraint is in conformity with training and agency policy and procedures.

Reasonable and moderate physical discipline inflicted by a parent or guardian shall not include an act that is likely to cause and that does cause injury more serious than transient pain or minor temporary marks.

The age, size, and condition of the child, the location of the injury, and the frequency or recurrence of injuries shall be considered when determining whether the physical discipline is reasonable or moderate.

It is not considered neglect when the parent's failure to provide for the child's needs is due to financial inability, and no services or relief have been offered.
Mandatory Reporters of Child Abuse and Neglect
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Professionals Required to Report
Citation: Ann. Code § 12-18-402

The following individuals are mandated reporters:
- Child care, daycare, or foster care workers
- Coroners
- Dentists and dental hygienists
- Domestic abuse advocates and domestic violence shelter employees or volunteers
- Employees of the Department of Human Services
- Employees working under contract for the Division of Youth Services of the Department of Human Services
- Foster parents
- Judges, law enforcement officials, peace officers, and prosecuting attorneys
- Licensed nurses, physicians, mental health professionals or paraprofessionals, surgeons, resident interns, osteopaths, and medical personnel who may be engaged in the admission, examination, care, or treatment of persons
- Public or private school counselors; school officials, including without limitation institutions of higher education; and teachers
- Social workers and juvenile intake or probation officers
- Court-appointed special advocate program staff members or volunteers
- Attorneys ad litem
- Clergy members, which include ministers, priests, rabbis, accredited Christian Science practitioners, or other similar functionary of a religious organization
- Employees of a child advocacy center or a child safety center
- Sexual abuse advocates or volunteers who work with victims of sexual abuse
- Child abuse advocates or volunteers who work with child victims of abuse or maltreatment as employees of a community-based victim service or a mental health agency
- Victim/witness coordinators
- Victim assistance professionals or volunteers
- Employees of the Crimes Against Children Division of the Department of Arkansas State Police
- Employees or volunteers at reproductive health-care facilities
- An individual not otherwise identified in this subsection who is engaged in performing his or her employment duties with a nonprofit charitable organization other than a nonprofit hospital

Reporting by Other Persons
Citation: Ann. Code § 12-18-401

Any person who has reasonable cause to suspect child maltreatment may report.

Institutional Responsibility to Report
Citation: Ann. Code §§ 12-18-402(c); 12-18-204

- An employer or supervisor of an employee identified as a mandated reporter shall not prohibit an employee or a volunteer from directly reporting child maltreatment to the Child Abuse Hotline.
- An employer or supervisor of an employee identified as a mandated reporter shall not require an employee or a volunteer to obtain permission or notify any person, including an employee or a supervisor, before reporting child maltreatment to the Child Abuse Hotline.
- Nothing in the reporting laws shall prohibit any person or institution from requiring an employee or volunteer who is a mandatory reporter to inform a representative of that person or institution that the reporter has made a report to the Child Abuse Hotline.
Standards for Making a Report
Citation: Ann. Code § 12-18-402

An individual listed as a mandatory reporter shall immediately notify the Child Abuse Hotline if he or she:

- Has reasonable cause to suspect that a child has been subjected to maltreatment, has died as a result of maltreatment, or died suddenly and unexpectedly
- Observes a child being subjected to conditions or circumstances that would reasonably result in maltreatment

Privileged Communications
Citation: Ann. Code §§ 12-18-402(c); 12-18-803

A privilege or contract shall not prevent a person from reporting child maltreatment when he or she is a mandated reporter and required to report under this section.

No privilege, except that between a lawyer and a client and between a minister, including a Christian Science practitioner, and a person confessing to or being counseled by a minister, shall prevent anyone from testifying concerning child maltreatment.

When a physician, psychologist, psychiatrist, counselor, or therapist conducts interviews with or provides therapy to a subject of a report of suspected child maltreatment for purposes related to child maltreatment, the physician, psychologist, psychiatrist, licensed counselor, or therapist is deemed to be performing services on behalf of the child.

An adult subject of a report of suspected child maltreatment cannot invoke privilege on the child’s behalf.

Inclusion of Reporter’s Name in Report
Citation: Ann. Code § 12-18-302

A mandated reporter may report child maltreatment or suspected child maltreatment by telephone call, facsimile transmission, or online reporting.

Facsimile transmission and online reporting may be used in nonemergency situations by an identified mandated reporter who provides the following contact information:

- Name and phone number
- In the case of online reporting, his or her email address

A mandated reporter who wishes to remain anonymous shall make a report through the toll-free Child Abuse Hotline telephone system.

Disclosure of Reporter Identity
Citation: Ann. Code § 12-18-909

The identity of the reporter shall not be disclosed unless a court determines that the reporter knowingly made a false report.