



*Current Through
December 2008*

Immunity for Reporters of Child Abuse and Neglect

To be eligible to receive Federal grants under the Child Abuse Prevention and Treatment Act (CAPTA), States are required to establish provisions for immunity from liability for individuals making good faith reports of suspected or known instances of child abuse or neglect.¹

¹ 42 U.S.C.A. § 5106a(b)(2)(A)(iv).

Electronic copies of this publication may be downloaded at

www.childwelfare.gov/systemwide/laws_policies/statutes/immunity.cfm

To find statute information for a particular State, go to

www.childwelfare.gov/systemwide/laws_policies/state/index.cfm

To find information on all the States and territories, order a copy of the full-length PDF by calling 800.394.3366 or 703.385.7565, or download it at

www.childwelfare.gov/systemwide/laws_policies/statutes/immunityall.pdf



Immunity for Making Reports

All States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands provide some form of immunity from liability for persons who in good faith report suspected instances of child abuse or neglect under the reporting laws. Immunity statutes protect reporters from civil or criminal liability that they might otherwise incur. This protection is extended to both mandatory and voluntary reporters.²

The term “good faith” refers to the assumption that the reporter, to the best of his or her knowledge, had reason to believe that the child in question was being subjected to abuse or neglect. Even if the allegations made in the report cannot be fully substantiated, the reporter is still provided with immunity. There is a “presumption of good faith” in approximately 17 States, the District of Columbia, American Samoa, and Guam, which means that the good faith of the reporter is assumed unless it can be proven to the contrary.³

Additional Provision of Immunity

States may provide immunity not only for the initial report of abuse or neglect, but also for many of the actions that a reporter may take following the filing of a report. For example, approximately 36 States, the District of Columbia, American Samoa, and Guam provide immunity to a reporter who participates in any judicial proceedings that may arise.⁴ Approximately 26 States provide immunity to a reporter for

² Mandatory reporters are persons who are required to report; voluntary reporters are not required to report but may choose to report. For a State-by-State summary of mandatory reporting laws, see Information Gateway's *Mandatory Reporters of Child Abuse and Neglect*: www.childwelfare.gov/systemwide/laws_policies/statutes/mandall.pdf

³ The word *approximately* is used to stress the fact that the States frequently amend their laws; this information is current through December 2008. The States that provide for an assumption of “good faith” include Colorado, Illinois, Indiana, Maine, Michigan, Mississippi, Nevada, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, Tennessee, Wisconsin, and Wyoming.

⁴ The States that do NOT provide this immunity are: Arkansas, California, Florida, Illinois, Massachusetts, Michigan, Minnesota, New York, North Dakota, Utah, Vermont, West Virginia, Wisconsin, and Wyoming.

assisting with or participating in an investigation of allegations of maltreatment.⁵

Many States also provide immunity for actions taken by medical practitioners in connection with making a report of suspected child maltreatment. These actions may include:

- Taking any necessary photographs or x-rays⁶
- Taking a child into emergency protective custody⁷
- Disclosing medical records or other information pertinent to a case⁸
- Performing a medical exam on the child⁹
- Performing medically relevant tests¹⁰

Limitations to Immunity

In many States, immunity from civil or criminal liability is specifically not provided in cases in which it can be shown that the person making a report acted with malice or in “bad faith” or knowingly made a false report.¹¹ Minnesota and North Dakota specifically deny immunity from any civil or criminal penalties for mandated reporters who fail to make required reports. Alaska provides no immunity for persons who knowingly make an “untimely report.” Persons who are the alleged perpetrators

⁵ Alabama, Arizona, Colorado, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, and Wisconsin.

⁶ In 14 States (Arkansas, California, Colorado, Illinois, Indiana, Iowa, Maine, Missouri, Nevada, New York, Pennsylvania, South Dakota, Utah, Wisconsin), American Samoa, and Guam.

⁷ In 12 States (Alabama, Arkansas, Colorado, Delaware, Illinois, Missouri, Nevada, New York, Pennsylvania, Utah, Virginia, Washington), American Samoa, and Guam.

⁸ In 11 States (Arizona, Illinois, Louisiana, Montana, Nevada, New York, North Dakota, South Carolina, South Dakota, Tennessee, and Utah) and Puerto Rico.

⁹ In 3 States: Delaware, Indiana, and Wisconsin.

¹⁰ In 2 States: Iowa and Nevada.

¹¹ Immunity is denied for acting with malice or in bad faith in 10 States: Arizona, Colorado, Idaho, Indiana, Missouri, Montana, New Mexico, Ohio, Texas, and Virginia. Immunity is denied for knowingly making a false report in 10 States: California, Louisiana, Maine, Missouri, Montana, Nebraska, North Dakota, Ohio, Utah, and Washington.

of the suspected abuse or neglect are specifically not provided immunity from prosecution in 16 States.¹²

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

¹² Alaska, Arizona, Colorado, Connecticut, Florida, Indiana, Louisiana, Massachusetts, Minnesota, North Dakota, South Dakota, Tennessee, Texas, Vermont, Washington, and Wisconsin.