

Abstract:

Across the United States, child abuse law is governed by state statute. Pediatricians must report suspected child abuse/neglect in accordance with their state's specific reporting requirements; failure to make a timely report creates civil liability exposures and triggers criminal penalties. The pediatrician's initial report may instigate further investigation by child protective services, and the reporting pediatrician may later become involved as a critical fact witness in ensuing legal proceedings, including criminal prosecutions, custody determinations, and medical malpractice controversies. The reporting pediatrician's testimony may influence the disposition of those matters and significantly affect the well-being of the involved children. As such, dutifully reporting pediatricians promulgate and engage in peerless child advocacy.

Keywords:

Child abuse and neglect; Child abuse reporting requirements; Child abuse reporting standards; Failure to report; Professional liability; Reason/cause/grounds to suspect/believe; Reasonable cause/grounds to suspect/believe; Reasonable suspicion

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Child Abuse and the Law

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Across the United States, child abuse regulations are governed by state statute. Pediatricians must therefore report suspected child abuse/neglect in accordance with their state's specific reporting requirements. In addition to exposing victimized children to additional risk, failure to make a report to the appropriate state agency in a timely manner creates civil liability exposures and triggers criminal penalties.

STRUCTURE OF US CHILD ABUSE LAW

State Law

All 50 states have passed statutes establishing requirements to report child abuse (the latest as recently as 1967).¹ As among those statutes, definitions of child abuse, criteria for reporting suspected child abuse to law enforcement agencies, deadlines for timely reporting, classes of mandated reporters, and immunity provisions for reporters all vary.² Although some commonalities exist across certain jurisdictions, legally operative reporting requirements remain specific to the state. Pediatricians are well advised to review the laws of the specific jurisdictions in which they practice ([Appendix A](#)).

Federal Law: Child Abuse Prevention and Treatment Act

Congress passed the Child Abuse Prevention and Treatment Act (CAPTA) in 1974.³ CAPTA is the first comprehensive federal legislation addressing child abuse and has been amended several times since its initial passage, most recently in 2010.⁴ CAPTA directs the Department of Health and Human Services to organize and fund advisory boards, research activities, and grants concerning child abuse investigation, prevention, and treatment.^{3,5} CAPTA also directs the Department of Health and Human Services to collect nationwide child abuse data and to examine the effectiveness of state/local child protection agencies' policies and procedures.³ Although initiatives under CAPTA support the development of improved state legislation and better law enforcement practices, it is

TABLE 1. Child abuse and neglect reporting sources, United States, 2004.

Report Source	Percentage of Annual Reports
Educational personnel	16.5
Legal or law enforcement personnel	15.6
Family member	14.1
Medical or mental health personnel	11.7
Social services personnel	10.5
Anonymous	9.4
Other	22.1

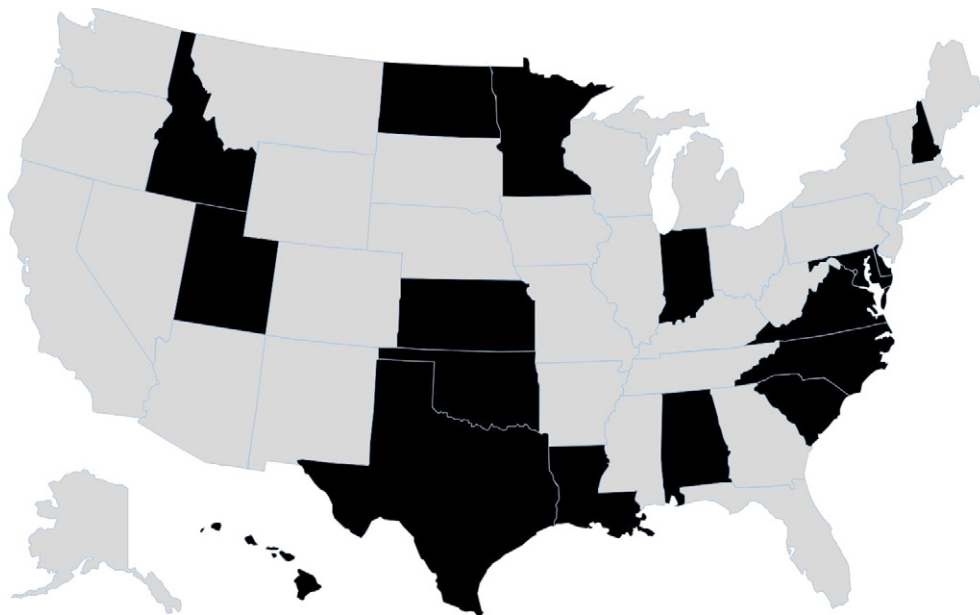
Adapted from Child Maltreatment 2004. US Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth, and Families Children's Bureau.

important to note that CAPTA *does not* preempt existing state law. Rather, child abuse law remains the domain of the states. ☒

REPORTING SUSPECTED CHILD ABUSE

Mandated Reporters

Many reporting statutes burden members of certain enumerated professions with specific, mandated child abuse reporting obligations. Typically included are physicians, nurses, hospital personnel, mental health professionals, other health care providers, social workers, school teachers, professional child care workers, foster care workers, residential or institutional workers, child protective services (CPS) agents, and law enforcement officers. Across all 50 states, physicians (including but certainly not limited to pediatricians) are enumerated as mandated reporters. The composition of professionals and individuals who actually file reports is shown in Table 1.



☐	“Reason to believe” “Cause to believe” “Suspect” “Reason to suspect” “Cause to suspect”	☐	“Reasonable cause to believe” “Reasonable grounds to believe” “Reasonably believe” “Reasonable cause to suspect” “Reasonably suspect” “Reasonable suspicion”
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Figure 1. Statutory wording for child abuse reporting threshold, by state.

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