

Am I a Mandatory Reporter?

By Cherrilynn Washington Thomas

State and federal law require that individuals who regularly come into contact with children are to report suspected cases of abuse or neglect. Funding to the states for the investigation and prevention of child maltreatment (abuse) is provided by the Child Abuse Prevention and Treatment Act (CAPTA), as amended by the CAPTA Reauthorization Act of 2010, 42 U.S.C. 5101, *et seq.* To receive CAPTA funding, the adoption of state mandatory reporting laws is required.

In Louisiana, “mandatory reporter” is defined in Children’s Code art. 603(17) to include the following — health practitioners, mental health/social service practitioners, members of the clergy, teaching or child care providers, police officer/law enforcement officials, commercial film/photographic print processors, juvenile court mediators, parenting coordinators, CASA (Court Appointed Special Advocate) volunteers, organizational or youth activity providers, and school coaches. As such, mandatory reporters are required by law to make a report when there is a “cause to believe that a child’s physical or mental health or welfare is endangered as a result of abuse or neglect” Louisiana Children’s Code art. 609.

Louisiana law does not categorically identify legal professionals as mandatory reporters but attorneys serve in many other roles in the community. Some attorneys are also health practitioners,

mental health/social service practitioners, members of the clergy, teachers or child care providers, police officers or law enforcement officials, mediators, CASA volunteers, youth activity providers and coaches. All of the above listed classes of individuals are mandatory reporters of child abuse.

What about the attorney-client privilege? Although an attorney holds an attorney-client privilege with his legal client, the privilege does not necessarily extend to the attorney in the other roles as listed above. Louisiana Code of Evidence art. 506 specifically provides the situations in which an attorney-client privilege is present. The Children’s Code does not provide any statutes to indicate an override to that provision.

When the attorney-coach or the attorney-teacher observes a child who is a victim of child abuse or neglect, that attorney-coach or attorney-teacher is now a mandatory reporter. Additionally, any person having cause to believe that a child’s physical or mental health or welfare is endangered as a result of abuse or neglect is a permitted reporter. Louisiana Children’s Code art. 609(8). This specifically includes a judge. Thus, an attorney may be a mandatory reporter or a permitted reporter.

Now that you have been identified as a mandatory or permitted reporter and you are witness to an incident of suspected abuse or neglect, what do you do? As a mandatory reporter of child

abuse, a report should be made to the Department of Children and Family Services (DCFS) by calling 1-855-4LA-KIDS (1-855-452-5437) and the local or state law enforcement agency. The report can be made anonymously and will hopefully prevent another child from being subjected to the cruel world of child abuse and neglect. A violation of the duty of a mandatory reporter to report subjects that person to criminal prosecution as authorized by La. R.S. 14:403(A)(1), a misdemeanor offense.

Training is provided on a regular basis to provide the guidelines of mandated reporting and other areas of child abuse and neglect. The training is provided through the Pelican Center for Children & Families, www.pelicancenter.org. For more information, visit the website of the Children’s Law Committee, www.lsba.org/ChildrensLaw/.

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