

22 M.R.S.A. § 4011-A



Maine Revised Statutes Annotated [Currentness](#)

Title 22. Health and Welfare

Subtitle 3. Income Supplementation

Part 3. Children

[Chapter 1071](#). Child and Family Services and Child Protection Act ([Refs & Annos](#))

[Subchapter 2](#). Reporting of Abuse or Neglect ([Refs & Annos](#))

→§ 4011-A. Reporting of suspected abuse or neglect

1. Required report to department. The following adult persons shall immediately report or cause a report to be made to the department when the person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected:

A. When acting in a professional capacity:

- (1) An allopathic or osteopathic physician, resident or intern;
- (2) An emergency medical services person;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A dental hygienist;
- (7) A dental assistant;
- (8) A chiropractor;
- (9) A podiatrist;
- (10) A registered or licensed practical nurse;
- (11) A teacher;
- (12) A guidance counselor;
- (13) A school official;
- (14) A children's summer camp administrator or counselor;
- (15) A social worker;
- (16) A court-appointed special advocate or guardian ad litem for the child;
- (17) A homemaker;

22 M.R.S.A. § 4011-A

- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;
- (27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (28) A chair of a professional licensing board that has jurisdiction over mandated reporters; and
- (29) A humane agent employed by the Department of Agriculture, Food and Rural Resources;

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the child, regardless of whether the person receives compensation; and

C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation.

Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person immediately shall notify either the person in charge of the institution, agency or facility or a designated agent who then shall cause a report to be made. The staff also may make a report directly to the department.

2. Required report to district attorney. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child, the person immediately shall report or cause a report to be made to the appropriate district attorney's office.

3. Optional report. Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected.

4. Mental health treatment. When a licensed mental health professional is required to report under subsection 1 and the knowledge or reasonable cause to suspect that a child has been or is likely to be abused or neglected comes from treatment of a person responsible for the abuse or neglect, the licensed mental health professional shall report to the department in accordance with subsection 1 and under the following conditions.

A. The department shall consult with the licensed mental health professional who has made the report and shall attempt to reach agreement with the mental health professional as to how the report is to be pursued. If agreement is not reached, the licensed mental health professional may request a meeting under paragraph B.

B. Upon the request of the licensed mental health professional who has made the **report**, after the department

22 M.R.S.A. § 4011-A

has completed its investigation of the **report** under section 4021 or has received a preliminary protection order under section 4034 and when the department plans to initiate or has initiated a jeopardy order under section 4035 or plans to refer or has referred the **report** to law enforcement officials, the department shall convene at least one meeting of the licensed mental health professional who made the **report**, at least one representative from the department, a licensed mental health professional with expertise in **child abuse** or neglect and a representative of the district attorney's office having jurisdiction over the **report**, unless that office indicates that prosecution is unlikely.

C. The persons meeting under paragraph B shall make recommendations regarding treatment and prosecution of the person responsible for the abuse or neglect. The persons making the recommendations shall take into account the nature, extent and severity of abuse or neglect, the safety of the child and the community and needs of the child and other family members for treatment of the effects of the abuse or neglect and the willingness of the person responsible for the abuse or neglect to engage in treatment. The persons making the recommendations may review or revise these recommendations at their discretion.

The intent of this subsection is to encourage offenders to seek and effectively utilize treatment and, at the same time, provide any necessary protection and treatment for the child and other family members.

5. Photographs of visible trauma. Whenever a person is required to report as a staff member of a law enforcement agency or a hospital, that person shall make reasonable efforts to take, or cause to be taken, color photographs of any areas of trauma visible on a child.

A. The taking of photographs must be done with minimal trauma to the child and in a manner consistent with professional standards. The parent's or custodian's consent to the taking of photographs is not required.

B. Photographs must be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for child welfare services.

C. The person shall notify the department as soon as possible if that person is unable to take, or cause to be taken, these photographs.

D. Designated agents of the department may take photographs of any subject matter when necessary and relevant to an investigation of a report of suspected abuse or neglect or to subsequent child protection proceedings.

CREDIT(S)

[2001, c. 345, § 5](#); [2003, c. 145, § 2](#); [2003, c. 210, §§ 3, 4](#); [2003, c. 510, § E-3](#); [2003, c. 599, §§ 8, 14, eff. April 6, 2004.](#)

HISTORICAL AND STATUTORY NOTES

Laws 2003, c. 510, § E-3, in subsec. 1, rewrote par. A, which prior thereto read:

"**A.** When acting in a professional capacity:

"(1) An allopathic or osteopathic physician, resident or intern;

"(2) An emergency medical services person;

"(3) A medical examiner;

"(4) A physician's assistant;

22 M.R.S.A. § 4011-A

"(5) A dentist;

"(6) A dental hygienist;

"(7) A dental assistant;

"(8) A chiropractor;

"(9) A podiatrist;

"(10) A registered or licensed practical nurse;

"(11) A teacher;

"(12) A guidance counselor;

"(13) A school official;

"(14) A children's summer camp administrator or counselor;

"(15) A social worker;

"(16) A court-appointed special advocate or guardian ad litem for the child;

"(17) A homemaker;

"(18) A home health aide;

"(19) A medical or social service worker;

"(20) A psychologist;

"(21) Child care personnel;

"(22) A mental health professional;

"(23) A law enforcement official;

"(24) A state or municipal fire inspector;

"(25) A municipal code enforcement official;

"(26) A commercial film and photographic print processor;

*"Text of subpar. (27) as amended by
Laws 2003, c. 145, § 2.*

"(27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;

*"Text of subpar. (27) as amended by
Laws 2003, c. 210, § 3.*

"(27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications; and

22 M.R.S.A. § 4011-A

"(28) A chair of a professional licensing board that has jurisdiction over mandated reporters; or

"(29) A humane agent employed by the Department of Agriculture, Food and Rural Resources; or"

Laws 2003, c. 510, § E-4, as amended by Laws 2003, c. 599, § 14, provides:

"**Sec. E-4. Retroactivity.** Those sections of this Part that repeal and replace the [Maine Revised Statutes, Title 22, section 3477, subsection 1, paragraph A](#) and section 4011-A, subsection 1, paragraph A apply retroactively to September 13, 2003."

Laws 2003, c. 510, was presented to the Governor by the Senate on June 14, 2003 and became law without his signature in accordance with M.R.S.A. Const. Art, IV, Pt. Third, Sec. 2. Received in the Office of the Secretary of State on January 12, 2004.

Laws 2003, c. 599, § 8, in subsec. 1, par. A, subpar. (29), substituted "humane agent" for "human agent".

Laws 2003, c. 599, § 9, provides:

"**Sec. 9. Retroactivity.** That section of this Act that amends the [Maine Revised Statutes, Title 22, section 3477, subsection 1, paragraph A](#) and that section that repeals and replaces Title 22, section 4011-A, subsection 1, paragraph A apply retroactively to September 13, 2003."

Laws 2003, c. 145, § 2, in subsec. 1, par. A, added subpar. (29); and made a nonsubstantive change.

Laws 2003, c. 210, § 3, in subsec. 1, in par. A, made a nonsubstantive change; in par. B, deleted "other" following "Any", substituted "child, regardless of whether the person" for "child, whether or not the person", and made a nonsubstantive change.

Laws 2003, c. 210, § 4, in subsec. 1, added par. C.

Derivation:

- Laws 1965, c. 68.
- Laws 1975, c. 167, § 1.
- Laws 1975, c. 678, § § 1, 2.
- Laws 1977, c. 511, § 5.
- Laws 1979, c. 733, § 15.
- Former 22 M.R.S.A. § 3853.
- Laws 1979, c. 733, § 18.
- Laws 1983, c. 354, § 3.
- Laws 1985, c. 495, § § 19, 20.
- Laws 1985, c. 530, § 1.
- Laws 1985, c. 739, § 7.
- Laws 1985, c. 819, § A, 25.
- Laws 1987, c. 744, § 8.
- Laws 1989, c. 270, § 6.
- Laws 1989, c. 819, § 2.
- Laws 1997, c. 251, § 1.
- Laws 1999, c. 300, § § 1, 2.
- Former 22 M.R.S.A. § 4011.

LIBRARY REFERENCES

- Infants k13.5.
- WESTLAW Topic No. 211.

22 M.R.S.A. § 4011-A

22 M. R. S. A. § 4011-A, ME ST T. 22 § 4011-A

Current with emergency legislation through Chapter 40 of the 2005 First Regular Session of the 122nd Legislature and with emergency legislation through Chapter 135 of the 2005 First Special Session of the 122nd Legislature

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