

McKinney's Social Services Law § 413



Effective: January 01, 2005

McKinney's Consolidated Laws of New York Annotated [Currentness](#)

Social Services Law ([Refs & Annos](#))

Chapter 55 Of the Consolidated Laws

[Article 6](#). Children

[Title 6](#). Child Protective Services ([Refs & Annos](#))

→§ 413. Persons and officials required to report cases of suspected child abuse or maltreatment

1. The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child: any physician; registered physician assistant; surgeon; medical examiner; coroner; dentist; dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident; intern; psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; hospital personnel engaged in the admission, examination, care or treatment of persons; a Christian Science practitioner; school official; social services worker; day care center worker; provider of family or group family day care; employee or volunteer in a residential care facility defined in [subdivision seven of section four hundred twelve](#) of this title or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; peace officer; police officer; district attorney or assistant district attorney; investigator employed in the office of a district attorney; or other law enforcement official. Whenever such person is required to report under this title in his or her capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, he or she shall immediately notify the person in charge of such institution, school, facility or agency, or his or her designated agent, who then also shall become responsible to report or cause reports to be made. However, nothing in this section or title is intended to require more than one report from any such institution, school or agency. At the time of the making of a report, or at any time thereafter, such person or official may exercise the right to request, pursuant to [paragraph \(A\) of subdivision four of section four hundred twenty-two](#) of this title, the findings of an investigation made pursuant to this title or [section 45.07 of the mental hygiene law](#).

2. Any person, institution, school, facility, agency, organization, partnership or corporation which employs persons mandated to report suspected incidents of child abuse or maltreatment pursuant to subdivision one of this section shall provide consistent with [section four hundred twenty-one](#) of this chapter, all such current and new employees with written information explaining the reporting requirements set out in subdivision one of this section and in [sections four hundred fifteen](#) through [four hundred twenty](#) of this title. The employers shall be responsible for the costs associated with printing and distributing the written information.

3. Any state or local governmental agency or authorized agency which issues a license, certificate or permit to an individual to operate a family day care home or group family day care home shall provide each person currently holding or seeking such a license, certificate or permit with written information explaining the reporting requirements set out in subdivision one of this section and in [sections four hundred fifteen](#) through [four hundred twenty](#) of this title.

CREDIT(S)

McKinney's Social Services Law § 413

(Added L.1973, c. 1039, § 1; amended L.1979, c. 81, § 1; L.1980, c. 843, § 182; L.1984, c. 932, § 1; L.1985, c. 676, § 4; L.1985, c. 677, § 7; L.1986, c. 718, § 1; [L.1988, c. 544, § 1](#); [L.1989, c. 194, § 1](#); [L.1994, c. 306, § 2](#); [L.1995, c. 94, § 1](#); [L.2001, c. 432, § 1, eff. Feb. 1, 2002](#); [L.2002, c. 420, § 8, eff. Sept. 1, 2004](#); [L.2002, c. 676, § 11, eff. Jan. 1, 2005](#).)

HISTORICAL AND STATUTORY NOTES

2003 Main Volume

L.2002, c. 676 legislation

Subd. 1. L.2002, c. 676, § 11, in the first sentence, inserted "licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst;" and, following "four hundred twelve of this", substituted "title" for "chapter", and, in the last sentence, substituted "title" for "article" following "four hundred twenty-two of this".

L.2002, c. 420 legislation

Subd. 1. L.2002, c. 420, § 8, inserted "social worker;" in the first sentence.

L.2001, c. 432 legislation

Subd. 1. L.2001, c. 432, § 1, inserted "emergency medical technician;"

L.1995, c. 94 legislation

Subd. 1. L.1995, c. 94, § 1, eff. Sept. 26, 1995, required a registered physician assistant to report a suspected case of child abuse.

L.1994, c. 306 legislation

Subd. 1. L.1994, c. 306, § 2, eff. July 20, 1994, included substance abuse counselors and alcoholism counselors in list of persons required to report suspected child abuse.

L.1989, c. 194 legislation

Subd. 1. L.1989, c. 194, § 1, added dental hygienists to the list of persons required to report suspected cases of child abuse or neglect.

L.1989, c. 194, § 3, set out as a note below, provided that the amendment by L.1989, c. 194, § 1 shall be subject to the expiration provisions of L.1985, c. 376. Such chapter of the laws of 1985 did not affect this section and did not contain any expiration provisions; it is assumed the legislature intended to refer to L.1985, c. 676, § 22, as amended, set out as a note below.

Section 3 of L.1989, c. 194; as amended L.1992, c. 32, § 46; L.1992, c. 39, § 1, eff. April 1, 1992, provided:

"This act [amending this section and [Education Law § 6507](#)] shall take effect January 1, 1990."

L.1986, c. 718 legislation

Section 6 of L.1986, c. 718; as amended L.1992, c. 32, § 41; L.1992, c. 39, § 1, eff. April 1, 1992, provided:

"This act [amending this section and §§ 421, 422, and 423] shall take effect on the one hundred twentieth day after it shall have become a law [Nov. 27, 1986], provided, however, that any regulations or guidelines necessary for the timely implementation of this act on its effective date may be promulgated on or before such date."

McKinney's Social Services Law § 413

L.1985, c. 677 legislation

Section 32 of L.1985, c. 677, provided:

"This act [L.1985, c. 677] shall take effect immediately [Aug. 1, 1985] provided that the provisions of:

"(a) section four [amending section 390(c)] thereof shall take effect October first, nineteen hundred eighty-five;

"(b) sections one [enacting provision set out as a note hereunder], two [amending section 34-a], two-a [amending section 376], three [amending section 377] and five through seventeen [enacting section 390-a, and amending sections 390(13), 413, 417, 421, 422, 423, 424, 424-a and 425], nineteen, twenty-two [amending [Executive Law § 510-a](#)], twenty-three [amending [Executive Law § 532-d](#)], twenty-eight [amending [Criminal Procedure Law § 190.25](#)], twenty-nine [amending [Family Court Act § 1024](#)] and thirty [enacting provision set out as a note under section 424-a] shall take effect January first, nineteen hundred eighty-six, provided that the provisions of section thirty shall expire on December thirty-first, nineteen hundred eighty-seven, provided, further, that the amendment to subdivision two of section thirty-four-a of the social services law as amended by section two of this act shall not be deemed to affect the expiration of such section as enacted by chapter six hundred eighty-one of the laws of nineteen hundred eighty-one [such provision is no longer scheduled to expire], as last extended by chapter five hundred thirty-nine of the laws of nineteen hundred eighty-three [see section 473];

"(c) (i) paragraph (a) and the opening paragraph and subparagraphs (i) and (ii) of paragraph b of subdivision one of section four hundred sixty-two of the social services law as amended by section eighteen of this act;

"(ii) the opening mandate of subdivision six of [section 29.29 of the mental hygiene law](#) preceding paragraphs (a) and (b) of such subdivision and such paragraphs (a) and (b) as added by section twenty of this act;

"(iii) the opening paragraph and paragraphs (a) and (b) of subdivision nine of section five hundred one of the executive law, as added by section twenty-one of this act;

"(iv) the opening paragraph and subdivisions (i) and (ii) of section forty-two hundred twelve of the education law as added by section twenty-four of this act;

"(v) the opening paragraph and subdivisions (i) and (ii) of section forty-three hundred fourteen of the education law as added by section twenty-five of this act;

"(vi) the opening paragraph and subdivisions (i) and (ii) of section four thousand three hundred fifty-eight of the education law as added by section twenty-six of this act; and

"(vii) the opening paragraph and paragraphs (a) and (b) of subdivision eleven of section four thousand four hundred three of the education law as added by section twenty-seven of this act shall take effect January first, nineteen hundred eighty-six;

"(d) except as otherwise provided for in subdivision (c) of this section, sections eighteen [amending section 462], twenty [amending [Mental Hygiene Law § 29.29](#)], twenty-one [amending [Executive Law § 501](#)], twenty-four [enacting [Education Law § 4212](#)], twenty-five [enacting [Education Law § 4314](#)], twenty-six [enacting [Education Law § 4358](#)] and twenty-seven [amending [Education Law § 4403](#)] of this act shall take effect April first, nineteen hundred eighty-six, provided that the department of social services, office of mental health, office of mental retardation and developmental disabilities, state education department, division for youth and the state commission on quality of care for the mentally disabled shall take all necessary and reasonable actions to make the provisions of such sections, the effectiveness of which is provided for by this paragraph, fully operational on the first day of October, nineteen hundred eighty-six; and

"(e) section thirty-one of this act [enacting provisions set out as a note under [Executive Law § 445](#)] shall take effect April first, nineteen hundred eighty-six, provided that the council on children and families shall take all necessary

McKinney's Social Services Law § 413

and reasonable actions to make the provisions of such section, the effectiveness of which is provided for by this paragraph, fully operational on the first day of October, nineteen hundred eighty-six."

Section 1 of L.1985, c. 677, provided:

"This act [See Effective Date of L.1985, c. 676, note set out above] together with a chapter of the laws of nineteen hundred eighty-five, entitled 'AN ACT to enact a portion of the 'child abuse prevention act of 1985' by amending the social services law, the mental hygiene law, the executive law, the education law and the family court act, in relation to the investigation, prevention and treatment of child abuse and maltreatment in residential care' [L.1985, c. 676] shall be known and may be cited as the 'child abuse prevention act of 1985'."

L.1985, c. 676 legislation

L.1985, c. 676, § 22; amended L.1990, c. 55, § 1; L.1991, c. 250, § 1; L.1992, c. 32, § 39; L.1992, c. 39, § 1, eff. April 1, 1992, provided:

"This act [L.1985, c. 676] shall take effect immediately [Aug. 1, 1985]."

Section 1 of L.1985, c. 676, provided:

"This act [See Effective Date of L.1985, c. 677, note set out above] together with a chapter of the laws of nineteen hundred eighty-five, entitled 'AN ACT to enact a portion of the 'child abuse prevention act of 1985' by amending the social services law, the New York city charter, the mental hygiene law, the executive law, the education law, the criminal procedure law and the family court act, in relation to standards, training and qualifications for persons responsible for the care of children; access to certain records of the state central register of child abuse and maltreatment; the relationships between law enforcement officials and child protective agencies; providing for day care facility inspections; and other matters [L.1985, c. 677] relating to the protection of children from abuse and maltreatment' shall be known and may be cited as 'the child abuse prevention act of 1985'."

Former Sections

Former § 413, added L.1940, c. 619, § 4, which related to the appointment of boards of visitors of state institutions, was repealed by L.1971, c. 947, § 1.

PRACTICE COMMENTARIES

2003 Main Volume

by Joseph R. Carrieri

2001

Emergency Medical Technician

In this day of heightened awareness that children are being abused and maltreated, the law requires certain responsible persons to report suspected child abuse or maltreatment of the child. Persons who have a duty to report are usually persons of an official capacity or who are professionals, such as a physician, registered physician assistant, surgeon, medical examiner, coroner, dentist, dental hygienist, osteopath, optometrist, chiropractor, podiatrist, resident, intern, psychologist, registered nurse, hospital personnel engaged in the admission, examination, care or treatment of person, Christian Science practitioner, school official, social service worker, day care worker, provider of family or group family day care, employee or volunteer in a residential care facility; mental health professional, substance abuse counselor, alcoholism counselor, peace officer; police officer, district attorney or assistant district attorney, investigator employed in the office of a district attorney. Add emergency medical technician to this list of persons obligated to report suspected child abuse.

McKinney's Social Services Law § 413

The justification of the amendment was offered that this amendment would further safeguard the lives and physical well-being of children who are victims of child abuse. The legislature further wrote that it was ironic that the long list of mandated reporters of suspected child abuse did not include emergency medical technicians (EMT's) since the emergency medical technicians are often the first individuals to arrive at the scene of a medical emergency and would likewise often be the first to detect any instances of child abuse.

1995

This section has recently been amended to include a registered physician's assistant among the persons who are required to report cases of suspected child abuse or maltreatment. The list of persons who must report suspected child abuse or maltreatment is growing and includes, among others, physicians, surgeons, medical examiners, dentists, chiropractors, interns and registered nurses. (See this section for a complete list of mandated reporters.)

One of the mandated reporters is a school official. A recent case involving a school teacher is noteworthy for the far-reaching effect the decision may have upon those who report suspected child abuse without first investigating the facts. The case in point is *Vacchio v. St. Paul's United Methodist Nursery School*, New York Law Journal, July 21, 1995 p. 32 col. 2. In the *Vacchio* case, the nursery school teacher noticed that the infant had a disturbing black eye and without more called the New York State Central Registry on child abuse and maltreatment and reported in effect that the infant was a victim of abuse and/or maltreatment. The parents of the child sued the teacher and the school for money damages alleging that the report was baseless, unfounded and patently false and that it was made without any attempt to determine the facts and circumstances surrounding how the child got the black eye. The defendants asserted that the immunity afforded by [§ 419 of the Social Services Law](#) insulated them from civil liability. The defendants made a motion to dismiss under [C.P.L.R. Rule 3211](#). Judge Bruce Alpert of the Supreme Court, Nassau County, denied the defendants' motion and noted that it did not appear from the papers submitted that any attempt was made to determine how the black eye was caused before reporting the suspected abuse or maltreatment. In discussing the immunity afforded the defendants pursuant to [§ 419](#), the judge acknowledged that for the purposes of any criminal or civil proceeding, the good faith of any person or official required to report cases of child abuse or maltreatment shall be presumed, provided such person, official or institution was acting in the discharge of their duties and within the scope of their employment, and that such liability did not result from the willful misconduct or gross negligence of such person, official or institution. The court, in denying the motion to dismiss the complaint against the school teacher and the school, held that where a motion to dismiss the complaint pursuant to [C.P.L.R. Rule 3211](#) is made, the court must construe the pleadings in a light most favorable to the plaintiffs. Having so stated, the judge then went on to write that it is at least arguable that the failure to conduct a preliminary inquiry or investigation prior to the rendering of a report may support a finding of gross negligence. This decision must cause every mandated reporter listed in § 413 to be extremely concerned about potential liability in reporting suspected child abuse or maltreatment. It may be reasonable to expect that the *Vacchio* decision could put a chilling effect on the reporting of suspected child abuse or maltreatment by mandated reporters. This, of course, would be contrary to the legislative intent which was to encourage people to freely report suspected child abuse or maltreatment. Judge Alpert in quoting from another case equated gross negligence with reckless disregard for the rights of others which smacks of intentional wrongdoing. The legislative purpose behind § 413 is the protection of the child, and hence the Appellate Court must strike a reasonable balance between the protection of the child and the injury to the parent or guardian where an inaccurate or unfounded or false report is made. Surely it was the legislative intent behind this section that all persons be invited to report suspected child abuse or maltreatment. Further, the legislature mandated certain persons who come in contact with children to make such reports. Nothing in this decision should, therefore, discourage mandated persons or even non-mandated persons from making reports of suspected child abuse to the appropriate authorities. However, based upon the *Vacchio* decision, inquiry must be made to protect the rights of the parent or guardian but also to insulate the reporter from possible civil liability.

Therefore, supervisors, superiors, principals and nurses should be involved so that the decision to report is

McKinney's Social Services Law § 413

not unilateral, where the potential for further inquiry exists.

LEGISLATIVE HISTORIES

L.2002, c. 676: For Legislative, Executive or Judicial memorandum relating to this law, see McKinney's 2002 Session Laws of New York, p. 2131.

L.1988, c. 544: For memorandum of the State Department of Social Services, see McKinney's 1988 Session Laws of New York, p. 2064.

L.1984, c. 932: For memorandum of the Legislative Representative of the City of New York, see McKinney's 1984 Session Laws of New York, p. 3486.

CROSS REFERENCES

Notification of teachers' duty to provide information and immunity from liability, see [Education Law § 3028-b](#).

Report filed with central register by person required to do so pursuant to this section admissible in evidence in hearing, see [Family Court Act § 1046](#).

Urine analysis, drug detection, see [Education Law § 912-a](#).

NEW YORK CODES, RULES AND REGULATIONS

2003 Main Volume

Reporting by day care center workers of suspected incidents of child abuse or maltreatment, see [18 NYCRR 418.6](#).

LAW REVIEW AND JOURNAL COMMENTARIES

Child abuse reporting in New York State: The dilemma of the mental health professional. Agatstein. 34 N.Y.L.Sch.L.Rev. 115 (1989).


Crack/Cocaine, Children and New York City's Family Court. Lenore Gittis and Carol Sherman. [64 N.Y.St.B.J. 22 \(1992\)](#).

[New York Law on confidentiality of medical records--Part II. Robert Vilensky, 66 N.Y.St.B.J. 24 \(1994\)](#).

1994 Legislation regarding children and families. David J. Lansner, 212 N.Y.L.J. 1 (Oct. 3, 1994).

LIBRARY REFERENCES

2003 Main Volume

Infants  13, 13.5, 17.

[C.J.S. Infants § § 5, 8 to 9, 92 to 93, 95 to 98](#).

In a caselaw database, run TO(211) or 211k[add key number] to retrieve cases related to Infants.

RESEARCH REFERENCES

2005 Electronic Update

ALR Library

McKinney's Social Services Law § 413

[42 ALR, Federal 463](#), Action of Private Hospital as State Action Under [42 U.S.C.A. § 1983](#) or Fourteenth Amendment.

[73 ALR 4th 782](#), Validity, Construction, and Application of State Statute Requiring Doctor or Other Person to Report Child Abuse.

[7 ALR 3rd 1458](#), Applicability in Criminal Proceedings of Privilege as to Communications Between Physician and Patient.

Encyclopedias

[6 Am. Jur. Proof of Facts 2d 345](#), Failure to Report Suspected Case of Child Abuse.

[38 Am. Jur. Trials 1](#), Professional Liability for Failure to Report Child Abuse.

[NY Jur. 2d, Defamation & Privacy § 116](#), What Constitutes Duty.

[NY Jur. 2d, Domestic Relations § 399](#), Extent and Terms of Visitation.

[NY Jur. 2d, Domestic Relations § 1741](#), Report Filed With Central Register of Child Abuse and Maltreatment.

[NY Jur. 2d, Evidence & Witnesses § 884](#), Statutory Abrogation of Privilege in Public Interest.

[NY Jur. 2d, Fright, Shock, & Mental Disturbance § 2](#), Intentional, Wilful, Wanton, or Malicious Acts.

[NY Jur. 2d, Fright, Shock, & Mental Disturbance § 5](#), Negligent Acts.

[NY Jur. 2d, Hospitals & Related Health Care Facilities § 35](#), Mandatory Reporting of Certain Incidents, Diseases, and Injuries.

[NY Jur. 2d, Physicians, Surgeons, & Other Healers § 43](#), Generally.

[NY Jur. 2d, Public Welfare & Old Age Assistance § 223](#), Preventive Services.

[NY Jur. 2d, Public Welfare & Old Age Assistance § 307](#), Generally.

[NY Jur. 2d, Public Welfare & Old Age Assistance § 309](#), Prohibition Against Release of Information in Report of Child Abuse and Maltreatment.

[NY Jur. 2d, Public Welfare & Old Age Assistance § 314](#), Generally.

[NY Jur. 2d, Public Welfare & Old Age Assistance § 315](#), Persons and Officials Required or Permitted to Report.

[NY Jur. 2d, Public Welfare & Old Age Assistance § 318](#), Penalties for Failure to Report.

[NY Jur. 2d, Public Welfare & Old Age Assistance § 319](#), Immunity from Liability.

Forms

McKinney's Forms, Business Corporation Law § 3:05, Corporate Purposes.

[McKinney's Forms, Business Corporation Law § 14:05](#), Purpose.

Treatises and Practice Aids

McKinney's Social Services Law § 413

[Carmody-Wait, 2d § 56:208](#), Exceptions to Privilege.

[Carmody-Wait, 2d § 56:220](#), Exceptions to and Limitations on Privilege.

[Carmody-Wait, 2d § 119A:98](#), Report Filed With Statewide Central Register of Child Abuse and Maltreatment.

[New York Pattern Jury Instructions--Civil 2:227](#), Municipal Liability-Inadequate Supervision-Schools.

[5 New York Practice Series § 5:21](#), Exceptions.

[5 New York Practice Series § 5:22](#), Psychologists.

[5 New York Practice Series § 5:38](#), New York.

[10 New York Practice Series § 2:3](#), Reporting and Investigation of Abuse and Neglect.

[10 New York Practice Series § 2:72](#), Fact-Finding Hearings-Statutory Rules of Evidence-Admissibility of Records.

[10 New York Practice Series § 2:73](#), Fact-Finding Hearings-Statutory Rules of Evidence-Privileged Communications.

NOTES OF DECISIONS


Failure to report [3](#)



Medical personnel [4](#)

Persons required to report, generally [1](#)

School personnel [2](#)

[1](#). Persons required to report, generally

Physician-patient privilege did not apply in grand jury proceedings relating to child abuse or neglect by defendant, where defendant's statements triggered physician's requirement to report. [People v. Gearhart, 1990, 148 Misc.2d 249, 560 N.Y.S.2d 247](#). Witnesses  211(4)

Social services worker who never met child or had opportunity to observe him personally was not "mandated reporter," required to report reasonable cause to believe that child coming before worker in his professional or official capacity is abused or maltreated child, and information received from worker was not probative for search warrant purposes. [Matter of Marcario, 1983, 119 Misc.2d 404, 462 N.Y.S.2d 1000](#). Infants  17; Searches And Seizures  116


Credentialed and noncredentialed substance abuse and addiction counselors are mental health professionals required to report suspected incidents of child abuse and neglect pursuant to this section. [Op.Atty.Gen. 91-F5](#).


Credentialed alcoholism counselors are mental health professionals required to report suspected incidents of child abuse and neglect pursuant to Social Services Law § 413. [Op.Atty.Gen. F89-5](#).


[2](#). School personnel

Teacher, speech therapist and school principal were entitled to qualified immunity from [§ 1983](#) claim brought by developmentally disabled student based upon defendants' reporting student's facilitated messages to state child protection authorities and their provision of assistance to county officials investigating subsequent sexual abuse allegations; state law mandated reporting of suspected child abuse upon reasonable cause to believe it occurred, and

McKinney's Social Services Law § 413


defendants' reliance on facilitated communication as evidence abuse had occurred was objectively reasonable. [Zappala v. Albicelli, 1997, 980 F.Supp. 635](#), affirmed [173 F.3d 848](#). Civil Rights  1376(5)


School district was entitled to immunity from liability for its good faith compliance with the reporting requirements of Social Services Law in connection with report of suspected educational neglect of 13-year-old child, absent allegations by child's parents that district was motivated by actual malice in making the report. [Sclar v. Fayetteville-Manlius School Dist. \(4 Dept. 2002\) 300 A.D.2d 1115, 753 N.Y.S.2d 636](#), leave to appeal denied [99 N.Y.2d 510, 760 N.Y.S.2d 101, 790 N.E.2d 275](#). Infants  13.5(2)


Grade school teacher owed no common-law duty to report suspected case of child sexual abuse to anyone, where reported acts of sexual abuse did not occur while child was in custody and control of school officials and threatened harm posed to child by child's uncle's continued acts did not involve foreseeable conduct that could occur while child was in the custody and control of school officials. [Kimberly S.M. by Mariann D.M. v. Bradford Cent. School \(4 Dept. 1996\) 226 A.D.2d 85, 649 N.Y.S.2d 588](#). Infants  13


School personnel are required to report suspected child abuse cases to local child protective services, and officials reporting such cases in good faith are granted civil and criminal immunity under [Social Services Law § 419](#); here, the appeal seeking a written explanation of the reason for interviewing the child was dismissed where no evidence indicated that school guidance counselor acted with gross negligence or that his reporting suspected abuse constituted willful misconduct. 1991, 31 Educ.Dept.Rep. 125.


3. Failure to report

For purposes of civil rights action by foster child against placement agency for failing to supervise placement adequately, fact that this section imposed strict duty on agency to report all suspected cases of child abuse provided plausible basis for inferring deliberate indifference from failure to act, even without specific knowledge of harm or risk. [Doe v. New York City Dept. of Social Services, C.A.2 \(N.Y.\)1981, 649 F.2d 134](#). Civil Rights  1406

Plaintiff failed to state claim for violation of New York child abuse reporting statute by alleging that defendants had "negligently" failed to report information concerning person who posed threat to children; allegation of "willfulness," or at very least inference of willfulness from non-conclusory allegations of complaint, was required. [Zimmerman ex rel. Zimmerman v. U.S., 2001, 171 F.Supp.2d 281](#). Infants  13.5(1)


Certified social worker could be liable in negligence and under New York Social Services Law with regard to allegedly abused foster child, if social worker either knew or should have known of the alleged abuse, but failed to provide or recommend appropriate treatment, or if she failed to notify others regarding the alleged incidents of abuse, even though she lacked unilateral authority to remove child from foster home. [Doe by Hickey v. Jefferson County, 1997, 985 F.Supp. 66](#). Infants  17


In [§ 1983](#) action, mandatory state law child abuse reporting requirements furnish plausible basis for jury to find deliberate indifference on part of defendant who fails to report suspected child abuse. [Zappala v. Albicelli, 1997, 980 F.Supp. 635](#), affirmed [173 F.3d 848](#). Civil Rights  1057


Mandated reporter may be held liable for breach of duty to report suspected cases of child sexual abuse even though it might ultimately be determined that abuse was not committed or not allowed to have been committed by person legally responsible for child. [Kimberly S.M. by Mariann D.M. v. Bradford Cent. School \(4 Dept. 1996\) 226 A.D.2d 85, 649 N.Y.S.2d 588](#). Infants  13

Former probationary county employee failed to establish that County Department of Mental Health violated law by refusing to permit employee to immediately file report of suspected child abuse upon learning of the allegation; allegation of child abuse was not made by child or by person legally responsible for child, employee's supervisor advised employee that it was premature to make such report and upon discussing matter with hospital staff, learned that persons who made allegations were not members of child's household and that there was no plan as yet to



McKinney's Social Services Law § 413



discharge person who allegedly abused child, and three days after allegations were made, hospital made report to Child Protective Services, obviating need for report from Department. [Weber v. County of Nassau \(2 Dept. 1995\) 215 A.D.2d 567, 627 N.Y.S.2d 64](#), leave to appeal dismissed in part, denied in part [87 N.Y.2d 1053, 644 N.Y.S.2d 143, 666 N.E.2d 1056](#), reargument denied [88 N.Y.2d 963, 647 N.Y.S.2d 716, 670 N.E.2d 1348](#). Infants  13

Although removing children from home would have been authorized by statute authorizing removal to protect children from imminent danger, failure of state to report abuse to child protective workers within 24 hours did not proximately cause one child's death and another's injuries; decision to leave children in home was reasonable, under known circumstances. [Boland v. State, 1998, 176 Misc.2d 625, 673 N.Y.S.2d 508](#), affirmed [263 A.D.2d 801, 693 N.Y.S.2d 748](#). Infants  17

State's negligence in breaching its duty to report acts of child abuse to proper county child protective services unit, preventing investigation from being conducted within 24 hours of receipt of complaint, was not proximate cause of two children's injuries and one child's death; even if children would have told investigator about situation, that would not have been sufficient to show imminent danger requiring removal of children from home and placement into protective custody. [Boland v. State, 1998, 176 Misc.2d 625, 673 N.Y.S.2d 508](#), affirmed [263 A.D.2d 801, 693 N.Y.S.2d 748](#). Infants  17

4. Medical personnel

Physician's duty to report sexual abuse of child patient did not extend to another child who was subsequently abused by same perpetrator; claim that "but for" physician's failure to report other child would not have been abused was far too speculative to support cause of action. [R.C. v. Diesfeld, 2004, 6 Misc.3d 205, 785 N.Y.S.2d 325](#). Infants  13.5(1); Infants  13.5(2)

Under New York law, which required medical personnel to notify appropriate authority when they had reasonable cause to suspect child abuse or mistreatment and which extended immunity to persons making such reports in good faith, medical center and related individual defendants were immune from liability on claim that they acted with racially discriminatory intent in seeking child's removal from her mother's custody, inasmuch as allegations established that defendants were acting in the course of discharging their duties when they reported alleged abuse or mistreatment of child, and did not assert that report was made in bad faith. [Phifer ex rel. Phifer v. City of New York, 2003, 2003 WL 1878418](#), Unreported. Civil Rights  1373; Civil Rights  1737

McKinney's Social Services Law § 413, NY SOC SERV § 413

Current through L.2005, chapters 4 to 104, 106 to 108, 111 to 148, 151 to 156, 158 to 160, 162 to 164, 166 to 174, 177, 193, 194, 197 and 222.

Copr © 2005 Thomson/West

END OF DOCUMENT