

W. Va. Code, § 49-6A-2



West's Annotated Code of West Virginia [Currentness](#)

Chapter 49. Child Welfare ([Refs & Annos](#))

[Article 6A](#). Reports of Children Suspected to Be Abused or Neglected ([Refs & Annos](#))

→§ 49-6A-2. Persons mandated to report suspected abuse and neglect

When any medical, dental or mental health professional, christian science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-enforcement official, member of the clergy, circuit court judge, family law master, employee of the division of juvenile services or magistrate has reasonable cause to suspect that a child is neglected or abused or observes the child being subjected to conditions that are likely to result in abuse or neglect, such person shall immediately, and not more than forty-eight hours after suspecting this abuse, report the circumstances or cause a report to be made to the state department of human services: Provided, That in any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report, or cause a report to be made, to the division of public safety and any law-enforcement agency having jurisdiction to investigate the complaint: Provided, however, That any person required to report under this article who is a member of the staff of a public or private institution, school, facility or agency shall immediately notify the person in charge of such institution, school, facility or agency, or a designated agent thereof, who shall report or cause a report to be made. However, nothing in this article is intended to prevent individuals from reporting on their own behalf.

In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of children, any other person may make a report if such person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.

Acts 1965, c. 14; Acts 1970, c. 79; Acts 1977, c. 65; Acts 1984, c. 75; [Acts 1992, c. 52](#); [Acts 1994, 1st Ex. Sess., c. 23](#); [Acts 2001, c. 52, eff. April 12, 2001](#).

<Acts 2000, c. 229, redesignated the department of public safety as the West Virginia state police. See § 15-2-2.>

#### CROSS REFERENCES

Child abuse, sexual abuse, and neglect, see [§ 61-8D-1](#) et seq.

#### LIBRARY REFERENCES

Infants k154.1.

Westlaw Key Number Search: 211k154.1.

[C.J.S. Infants § § 31, 36 to 40, 43 to 44, 51 to 52, 55, 62](#).

#### RESEARCH REFERENCES

##### Encyclopedias

[2 Am. Jur. Proof of Facts 2d 365](#), Child Abuse--The Battered Child Syndrome.

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



W. Va. Code, § 49-6A-2


## NOTES OF DECISIONS


**In general** [1](#)  
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### [1.](#) In general



Allowing student to bring action under West Virginia **child abuse reporting** statute, against state and local education and social service defendants for failing to report teacher's alleged sexual abuse of student, would not intrude into an area delegated exclusively to the federal government, as element for allowing private cause of action under the statute. [Arbaugh v. Board of Educ., County of Pendleton, 2003, 591 S.E.2d 235, 214 W.Va. 677.](#) Infants

 13.5(2); States  18.28


The **child abuse reporting** statute does not give rise to an implied private civil cause of action, in addition to criminal penalties imposed by the statute, for failure to report suspected **child abuse**, where an individual with a duty to report under the statute is alleged to have had reasonable cause to suspect that a child is being abused and has failed to report suspected abuse. [Arbaugh v. Board of Educ., County of Pendleton, 2003, 591 S.E.2d 235, 214 W.Va. 677.](#) Infants  13.5(2)

To assure that all relevant entities are actively pursuing goals of child abuse and neglect statutes, Administrative Director of the Supreme Court of Appeals is directed to work with clerks of circuit court to develop systems to monitor status and progress of child neglect and abuse cases in court. [Code, 49-6- 2\(d\).](#) [Boarman v. Boarman, 1993, 438 S.E.2d 876, 190 W.Va. 533.](#) Infants  131

### [2.](#) Dismissal

In child abuse and neglect hearing, before a court can begin to make any of the dispositional alternatives under governing statute, it must hold a hearing and determine whether child is abused or neglected; such finding is a prerequisite to further continuation of the case. [Code, 49-6-2, 49-6-5.](#) [State v. T.C., 1983, 303 S.E.2d 685, 172 W.Va. 47.](#) Infants  202; Infants  222

### [3.](#) Harmless error

In custody dispute, father was not prejudiced by lower court's failure to administer oaths to children being interviewed in camera to determine their custody preference. [Boarman v. Boarman, 1993, 438 S.E.2d 876, 190 W.Va. 533.](#) Child Custody  923(1)

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