

HOW TO REPORT CHILD ABUSE:

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Children need to be nurtured and protected. Unfortunately, some parents are unable to care for their children. When neglect or abuse of a child occurs, someone must step in to ensure the child's safety. The community, the police, and courts, and state and local agencies share this responsibility. In Georgia, the Division of Family and Children Services (DFCS) is the state agency designated to reduce the risk to children and strengthen families. DFCS receives reports of abuse and neglect through a centralized line (1-855-GACHILD) that operates 24 hours per day, seven days per week.

The Official Georgia Code Annotated (OCGA) § 19-7-5 defines types of child abuse and the requirements for reporting of such abuse. The purpose of the law and the interpretive considerations are contained in the law itself:

The purpose of this Code section is to provide for the protection of children. It is intended that mandatory reporting will cause the protective services of the state to be brought to bear on the situation in an effort to prevent abuses, to protect and enhance the welfare of children, and to preserve family life wherever possible. This Code section shall be liberally construed so as to carry out the purposes thereof. OCGA § 19-7-5 (a)

Who is a child?

In Georgia, "child" means any person who is under age 18 years.

What is the legal threshold for reporting child abuse?

Reporting is appropriate when there is "reasonable cause to believe that suspected child abuse has occurred" (OCGA 19-7-5 [c][1]). This language, which became effective after House Bill (HB) 268 was enacted July 1, 2015, provides a broader statutory definition that the original language of "a child has been abused." HB 268 did not clarify the meaning of the term "suspected child abuse." For mandated reporters, the law states that they "shall report or cause reports of such abuse to be made."

What are the types of child maltreatment?

Georgia recognizes child maltreatment as neglect, physical abuse, sexual abuse, sexual exploitation, and endangering a child.

What is considered child abuse or neglect?

- *Neglect* is the failure of the parent or caretaker to see that a child is adequately fed, clothed, housed, or supervised. In Georgia as well as nationally, the majority of mandated reports of child maltreatment involve neglect U.S. Department of Health and Human Services, 2018).
- *Physical abuse* is injury to a child by a parent or caretaker by other than accidental means. Injury means an action that results in a child sustaining a bruise, welt, fracture, burn, cut, or internal injury.

- *Sexual abuse* occurs when a parent or other adult uses a child under age 18 for sexual gratification.
- *Sexual exploitation* means conduct by any person who allows, permits, encourages, or requires a child to engage in prostitution or sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct.
- *Endangering a child* is a category that was added to the law when HB 905 was enacted during the 2016 legislative session and became effective July 1, 2016. This change resulted in Georgia moving from a *harm standard* (i.e., harm has occurred) to the lower threshold of a *danger standard* (i.e., harm might occur). Under the provisions of OCGA 19-7-5[b][4], child endangerment includes any of the following four areas:

- (A) Allowing a child to witness the commission of a forcible felony, battery, or family violence battery...” (OCGA § 16-5-70).
- (B) Presence of a child during manufacture of methamphetamine (OCGA § 16-5-73). Methamphetamine includes methamphetamine, amphetamine, or any mixture containing either methamphetamine or amphetamine, as described in Code Section § 16-13-26.
- (C) Presence of a child in (3) an automobile in which someone is driving under the influence of alcohol, drugs, or other intoxicating substances (OCGA § 40-6-391).
- (D) Prenatal abuse, as defined in OCGA 15-11-2.

How is *prenatal abuse* defined?

As defined by OCGA §15-11-2 (56), “Prenatal abuse” means exposure to chronic or severe use of alcohol or the unlawful use of any controlled substance, as such term is defined in Code Section 16-13-21, which results in:

- (A) Symptoms of withdrawal in a newborn or the presence of a controlled substance or a metabolite thereof in a newborn’s body, blood, urine, or meconium that is not the result of medical treatment; or
- (B) Medically diagnosed and harmful effects in a newborn’s physical appearance or functioning.

What is the so-called 4-year exception?

HB 905 was enacted into law on July 1, 2016. The statutory language states that any consensual act between two minors, where one is less than 14 years old, is considered sexual abuse. The law further clarifies the 4-year exclusion rule by stating that a consensual sexual relationship between a minor and an adult—where the age difference is 4 years or less—is not child abuse. Under the 4-year rule, the following scenarios involving consensual sex are implied:

- 13-year-old and 14-year-old (**child abuse**)
- 14-year-old and 18-year-old (not child abuse)
- 15-year-old and 19-year-old (not child abuse)
- 16-year-old and 20-year-old (not child abuse)
- 17-year-old and 21-year-old (not child abuse)
- 17-year-old and 22-year-old (**child abuse**)

Notwithstanding the above implications of the so-called 4-year exception, OCGA §16-6-3 (a) states, “A person commits the offense of statutory rape when he or she engages in sexual intercourse with any person under the age of 16 years and not his or her spouse, provided that no conviction shall be had for this offense on the unsupported testimony of the victim.”

How is child *neglect* defined?

According to Prevent Child Abuse Georgia (2019), neglect of a minor child is defined as:

- (1) The failure to provide proper parental care or control, subsistence, education as required by law or other care or control necessary for a child's physical, mental or emotional health or morals; or
- (2) The failure to provide a child with adequate supervision necessary for such child's wellbeing; or
- (3) The abandonment of a child by his or her parent, guardian or legal custodian.

How long can a child be left unsupervised?

Although there are no Georgia laws regarding the supervision of minor children, DFCS has guidelines that may help protect children from neglect and injuries. These guidelines apply only to minor children who are in parental custody (i.e., not in DFCS custody). Situations involving children for whom DFCS has placement responsibility are governed by foster care requirements.

Prevent Child Abuse Georgia (2019) has adopted the supervision guidelines below:

- Children 8 years or younger should not be left alone
- Children between the ages of 9 years and 12 years, based on level of maturity, may be left alone for brief (less than two hours) periods of time; and,
- Children 13 years and older, who are at an adequate level of maturity, may be left alone and may perform the role of babysitter, as authorized by the parent, for up to 12 hours.

Are there any exceptions to the supervision guidelines?

There are a few circumstances where an unsupervised older child with a special condition or disability may be at risk. There are also some circumstances in which a younger child may have the maturity level to be left alone or to care for other children. A more thorough list of supervision guidelines and exceptions is contained in the DFCS Lack of Supervision Guidelines (McDowell, 2019).

What are the major categories of neglect?

Although there is no Georgia law that provides an operational definition of neglect, DFCS does have agency guidelines that are used to make such determinations. According to Children's Bureau of the U.S. Department of Health and Human Services, "Neglect is the failure of a parent or other caregiver to provide for a child's basic needs. Neglect generally includes the following categories (Child Welfare Information Gateway, 2019, p. 3):

- Physical (e.g., failure to provide necessary food or shelter, lack of appropriate supervision)
- Medical (e.g., failure to provide necessary medical or mental health treatment, withholding medically indicated treatment from children with life-threatening conditions)
- Educational (e.g., failure to educate a child or attend to special education needs)
- Emotional (e.g., inattention to a child's emotional needs, failure to provide psychological care, permitting a child to use alcohol or other drugs)

According to the Child Welfare Information Gateway, “Sometimes cultural values, the standards of care in the community, and poverty may contribute to what is perceived as maltreatment, indicating the family may need information or assistance. It is important to note that living in poverty is not considered child abuse or neglect. However, a family’s failure to use available information and resources to care for their child may put the child’s health or safety at risk, and child welfare intervention could be required” (2019, p. 3).

If you think a child is being hurt or neglected, whom do you call?

Reports can be made by calling 1-855-GACHILD (1-855-422-4453) 24 hours a day, 7 days a week, 365 days per year. By state law, the report is required to be kept confidential. However, it can be more helpful for the child if you are willing to testify in court if necessary. If you believe a child is in immediate danger, please call the police (911).

Are mandated reporters required to report child abuse based on information learned through privileged communication?

Georgia statutory law states the following:

Suspected child abuse which is required to be reported by any person pursuant to this Code section shall be reported notwithstanding that the reasonable cause to believe such abuse has occurred or is occurring is based in whole or in part upon any communication to that person which is otherwise made privileged or confidential by law; provided, however, that a member of the clergy shall not be required to report child abuse reported solely within the context of confession or other similar communication required to be kept confidential under church doctrine or practice. When a clergy member receives information about child abuse from any other source, the clergy member shall comply with the reporting requirements of this Code section, even though the clergy member may have also received a report of child abuse from the confession of the perpetrator. (OCGA § 19-7-5 [c][3][g])

What happens when someone calls DFCS to report suspected abuse or neglect?

An intake worker will first determine whether the call is about the maltreatment of a child under age 18 by a parent or caretaker. Reports that fall within the guidelines stated above are assessed by DFCS, frequently along with the police. Georgia law requires DFCS to notify police of all reports of abuse. In-person response times range from within 24 hours to five days depending on the nature and severity of the allegation, the age of the child, and history of the family with the agency, if any. The main concern throughout the assessment is the safety of the child.

Under what conditions may DFCS remove children who are in imminent danger?

If the Child Protective Services (CPS) staff determine that it is not safe for a child to remain at home, DFCS will file a petition with the local juvenile court to request temporary custody. A hearing will be held with juvenile court to discuss who should retain ongoing custody.

What happens to children who are left with their families after DFCS has substantiated abuse or neglect?

DFCS works with families to provide services and referrals to decrease safety issues in the home and increase the parental capacities whenever possible. The most intensive services are provided to high risk facilities. DFCS will continue to evaluate the safety of children in the home. An alternative plan will be developed for any child determined to be unsafe.

What kinds of services are offered to these families?

Family services include referral for alcohol and drug treatment, referrals for employment and child support, parenting education, counseling, in-home parent aides, and child care.

What happens if a child is still being neglected or is abused again?

If at any time determined that the child can't be maintained safely in the home, DFCS must go to court to seek temporary custody of the child.

Does Georgia emphasize keeping the family unit together at all costs?

No. The most important consideration is the safety and protection of the child.

Where do children go when they must be moved from the home to ensure their safety?

DFCS places a child in the least restrictive, most appropriate setting possible. Before DFCS places the child, the placement must be able to meet the needs of the child. Generally, a DFCS staff member looks for a relative in order to continue a child's bond with family. Relatives must demonstrate they are willing and able to provide a safe and loving home for a child. DFCS evaluates all potential homes including relative and non-relative placements. Possible placement options include living with a relative, in a foster home (either publicly or privately managed), or in a child caring institution (CCI).

Where can I learn more about the specific statutory language of Georgia law?

Check the public access of LexusNexis@:
<https://advance.lexis.com/>

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Content and some references last updated 2020

The correct citation for this article is Doverspike, W. F.
(2018). How to report child abuse.
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