



DON'T RISK GOING TO JAIL

THE DUTY TO REPORT ABUSE OR NEGLECT

Today's Presenter

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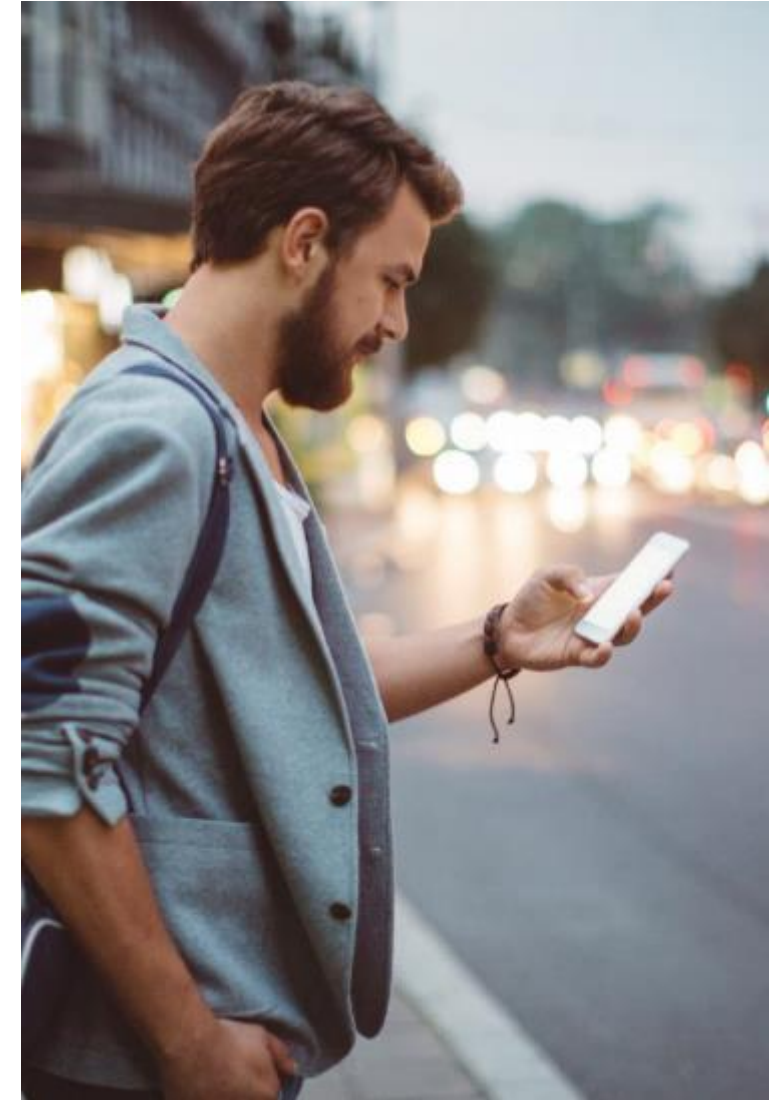
Objectives

WHO HAS THE DUTY TO REPORT?

WHEN IS A REPORT NECESSARY?

TO WHOM MUST THE REPORT BE MADE?

WHAT HAPPENS IF I FAIL TO REPORT?



DUTY TO REPORT

Obligation to report varies from state to state.

Mandatory vs. Discretionary Reporters

Some states limit mandatory reporting to certain professions: doctors, healthcare providers, counselors, pastors, teachers, childcare workers or others who have common contact with children.

Some states also differentiate between mandatory and discretionary reporters.

Indiana is different



Ind. Code § 31-33-5-1

[A]n individual who has reason to believe that a child is a victim of child abuse or neglect shall make a report as required by this article.



Ind. Code § 31-33-5-1

Statute does NOT limit the reporting requirement only to those who KNOW about the child abuse or neglect.

Statute requires reporting by anyone who has any reason to believe that a child is abused or neglected.

Does not even limit requirement to adults.

WHO has the duty to report?

Classroom Teachers

Including classroom aides,
instructional assistants,
substitute teachers,
librarians, coaches &
volunteers



School Counselors

School Social Workers
School Psychologists
School based therapists



School Administrators

Principals
Assistant Principals
Deans
Superintendents
Other Administrators



School Nurses
Support staff
Cafeteria workers
Custodians
EVERYONE!

WHO MUST REPORT?

Isn't there an exception for school personnel?

An exception *DID* exist for school staff members. Under that exception, one could satisfy the report obligation by reporting to the person in charge or to a person designated by the person in charge of the agency, school or facility.

HOWEVER, as of July 1, 2017, that exception now applies only to hospital staff. All others, including teachers and school staff, have an individual obligation to report that cannot be satisfied by reporting to someone else within the institution, school, facility, or agency.





MAKING THE REPORT:

Who you gonna call?

- I.C. § 31-33-5-2 provides that a report may be written or oral and that it may be made either to the Indiana Department of Child Services (DCS) or to a law enforcement agency.
- **1-800-800-5556 is the DCS toll free hotline that accepts reports of child abuse or neglect 24 hours a day.**
- DCS allows these reports to be made anonymously.
- 9-1-1 is the universal number to make a report to local law enforcement.





WHEN to make a report

- A “child” is anyone under the age of 18. “Child abuse or neglect,” found at Indiana Code § 31-9-2-13. Situations that trigger the mandatory reporting obligation are numerous and broad.
- "Child abuse or neglect", refers to acts or omissions by a person against a child, regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.
- Neglect of a dependent, IC 35-46-1-4 “a person having the care of a dependent, whether assumed, voluntary or because of a legal obligation, who knowingly or intentionally:
 - (1) places the dependent in a situation that endangers the dependent’s life or health;
 - (2) abandons or cruelly confines the dependent;
 - (3) deprives the dependent of necessary support; or
 - (4) deprives the dependent of education as required by law;

commits neglect of dependent, a Level 6 Felony





WHEN to make a report

- Situations that trigger the reporting obligation are broad and include numerous situations. Some examples are:
- The child's physical or mental condition or health is seriously impaired or seriously endangered because the child's parent, guardian, or custodian is failing to provide the child with necessary food, clothing, shelter, medical care, education, or supervision.
- The child is a victim of human or sexual trafficking.
- The child's parent, guardian, or custodian allows the child to participate in an obscene performance or to commit a sex offense.





WHEN to make a report

- The child is a victim of any crime committed by or permitted by a parent or guardian, including but not limited to battery; sex crimes (including rape, child molestation, child exploitation, child seduction, sexual battery, and sexual misconduct with a minor); homicide; robbery; kidnapping; confinement.
- Not all examples of abuse or neglect are that egregious.
- Also includes situations in which the child is exposed to drug abuse within the home, domestic abuse within the home or other criminal activity.
- The law does not restrict the reporting obligation to people who know about child abuse or neglect. If you have any reason to believe a child is abused or neglected, you must report, and you must report immediately.



FAILING TO REPORT:

What happens if I fail to report as required?

- Knowingly failing to report your belief that a child is a victim of child abuse or neglect is a Class B Misdemeanor under Indiana Code 31-33-22-1.
- Punishable by up to 6 months in jail and up to \$1000 fine.
- Can also result in suspension or revocation of teacher's license.





FAILING TO REPORT:

They aren't really going to put a teacher in jail are they?

- In *Smith v. State*, 668 N.E.3d 668 (Ind. 2014), the Indiana Supreme Court upheld the conviction of a high school principal who learned of an alleged rape, first investigated the allegations, then reported to police 4 hours after alleged rape first reported to the principal.
- Supreme Court held that the principal's report was not immediate., "[I]t is not the school administrator's responsibility to investigate. That responsibility is firmly placed with DCS and law enforcement."





FAILING TO REPORT:

They aren't really going to put a teacher in jail are they?

- *Smith v. State*, 668 N.E.3d 668 (Ind. 2014)
- The Supreme Court made it clear that immediate means immediate.
- School personnel have no duty to investigate before making a report.
- ONLY need to have any reason to believe a child is abused or neglected, you must report, and you must report immediately.



What you must do to fulfill your statutory obligation

How to make sure that YOU don't get arrested or charged with a crime for failure to comply with mandatory reporting:

We ALL have the duty to report abuse or neglect of a child.



Alerted to information that a child has been abused or neglected



Do NOT take time to investigate the allegations first



Call 9-1-1 or 1-800-800-5556



Do NOT WAIT. Report IMMEDIATELY!

QUESTIONS?

