

City of Seaside

Mandated Reporter Policy

A. PURPOSE

Under California law, there are two statutory requirements that designate certain individuals to be “mandated reporters:” the “Child Abuse and Neglect Reporting Act” (Penal Code §§11164 et seq.), and the “Elder Abuse and Dependent Adult Civil Protection Act” (Welfare and Institutions Code §§15600 et seq.).

A mandated reporter is an individual who is obligated by state law to report known or suspected cases of child, elder or dependent adult abuse and neglect to any law enforcement agency, child protective or welfare services agency.

Certain categories of City employees fall under the definition of “mandated reporter.” Therefore, this policy shall serve to address the requirements of the law, including identifying the reporting procedures for employees to follow when reporting cases of suspected child, elder or dependent adult abuse. This policy shall also address the recommended procedures for City employees, volunteers, and independent contractors who are not considered legal mandated reporters.

Imminent Harm/Danger – Call 911. Regardless of any mandated reporting duties imposed under the law or by this policy, it should be noted that if a City employee suspects or believes that a child, dependent adult or elder is in imminent harm, faces immediate physical danger or harm, or is in a life-threatening situation, City employees should immediately contact the Police Department by calling 911.

B. DEFINITIONS

1. “Child” means a person under the age of 18 years. [Penal Code §11165.]
2. “Child Abuse” or “Child Neglect” includes but is not limited to physical injury or death inflicted upon a child by another person by other than accidental means, sexual abuse, assault or exploitation, neglect or maltreatment of a child by both acts or omissions on the part of the responsible person; failure to provide adequate nutrition, clothing, shelter or medical care, unlawful corporal punishment or injury, willful harming or injury of a child. [Penal Code §11165.6]
 - a. “Child Abuse” or “Child Neglect” does not include mutual affray between minors, or an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer. [Penal Code §11165.6.]

3. "Dependent Adult" means a person between the ages of 18 and 64 years who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights, including but not limited to, persons who have physical or developmental disabilities, or whose physical or mental abilities have diminished because of age. [W & I Code §15610.23.]
4. "Elder" means any person 65 years of age or older.
5. "Elder Abuse" or "Dependent Adult Abuse" includes but is not limited to physical abuse and injury, abandonment, abduction, isolation, financial abuse or neglect.
6. "Emotional damage" is evidenced by states of being or behavior, including but not limited to, severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others. [Penal Code §11166.05.]
7. "Mandated Reporter" for purposes of reporting child abuse or neglect generally includes all City employees who have direct contact or supervisory control over children and children programs.

State law (Penal Code §11165.7) includes an extensive list of categories of employment for mandated reporters. The following positions are excerpts from that list, as the positions would apply to City employees and programs:

- Teacher
 - Instructional Aide
 - An administrator of a day camp
 - An administrator or employee of a youth recreation program or youth organization
 - An administrator or employee whose duties require direct contact and supervision of children
 - An administrator or employee of a licensed community care or child day care facility
 - Athletic coaches employed by a private or public school
 - All sworn employees of a fire department
 - All employees of a police department, sworn or non-sworn
8. "Mandated Reporter" for purposes of reporting elder or dependent adult abuse or neglect includes any licensed City employee who provides care or services for elder or dependent adults, including administrators and supervisors of said programs. [W & I Code §15630(a).]

- a. All employees of the police department (sworn and non-sworn) are considered “mandated reporters” for purposes of reporting elder and dependent adult abuse. [W&I Code §15630(a).]
9. “Optional Reporter” City volunteers and independent contractors whose duties require direct contact with and supervision of children are not included as City mandated reporters under Penal Code §11165.7; however, the City shall encourage that its volunteers and independent contractors be trained on recognizing instances of abuse or neglect, and to make reports of suspected abuse and neglect as provided for in this policy.

C. MANDATED REPORTER RESPONSIBILITIES FOR SUSPECTED CHILD ABUSE OR NEGLECT

1. Reporting Process. As required by state law, all mandated reporters who know of or reasonably suspect child abuse or neglect within the course and scope of their employment with the City must comply with the reporting process described below:
 - a. When it is objectively reasonable for a mandated reporter to suspect child abuse or neglect, in his or her professional capacity or within the scope of his or her employment, the mandated reporter must immediately or as soon as practical make an oral report by telephone to either of the following agencies:
 - i. The police department, by calling 911.
 - ii. The Monterey County Department of Social Services at 1-800-606-6618 or 831-755-4661.
 - iii. If the mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as practical, submit by fax or electronic transmission a one-time automated written report on a form prescribed by the Department of Justice (Attachment A).
 - b. Within 36 hours after making the oral report, the mandated reporter shall transmit, either by fax or electronically a written follow-up report (Attachment A) to the same agency who received the initial oral report. [Penal Code §11166.]
 - c. A mandated reporter who has knowledge or who reasonably suspects that a child is suffering from severe emotional damage may, but is not legally obligated, to make a report to either the police department or the Monterey County Department of Social Services. [Penal Code §11166.05.]

2. Individual Duty to Report. A mandated reporter has an individual duty to report suspected child abuse or neglect. This duty cannot be passed off to another employee or to a supervisor and the duty to report is not excused by a supervisor's opinion that a report is not necessary. [Penal Code §11166(i)(1).]
3. Designated Reporter. When two or more mandated reporters become aware of a known or suspected instance of abuse or neglect, they may, by mutual agreement, designate one of themselves to make the required oral and/or written report. However, if a mandated reporter becomes aware that the designated individual failed to report, then he or she must make the report. [Penal Code § 11166(h).]
4. Supervisor's Duties. A supervisor shall not impede or inhibit reporting by a mandated reporter, and may not impose disciplinary action against the reporter for making a report. A supervisor who impedes, inhibits a mandated report, or imposes disciplinary action against a reporter may be subject to criminal liability. [Penal Code §§11166(i)(1) and 11166.01.]
5. No Duty to Investigate. A mandated reporter should not conduct any investigation of suspected child abuse or neglect.
6. Notification to City/Police of Report. Although not legally required, mandated reporters who make a report about suspected abuse and neglect are strongly encouraged to notify his or her Department Director, the Human Resources Division or the City Attorney's Office. Mandated reporters are also encouraged to notify the Seaside Police Department any time a mandatory report is made to another agency, including another law enforcement agency.
 - a. Identity May Remain Confidential. However, nothing in this policy shall require any employee who is required to make reports to disclose his or her identity to the City. [Penal Code § 11166(i)(2).]
 - b. Recordkeeping. Mandated reporters should retain a copy of the submitted written mandated report. In addition, the City recommends that an "Incident Report" be completed by the mandated reporter of the event and submitted directly to Human Resources, unless the mandated reporter wishes to remain anonymous.
7. Volunteers and Independent Contractors. By law, City volunteers and independent contractors whose duties require direct contact with and supervision of children are not included as City mandated reporters under

Penal Code §11165.7; however, by this policy, the City shall encourage that its volunteers and independent contractors be trained on recognizing instances of abuse or neglect, and to make reports of suspected abuse and neglect as provided for in this policy.

8. Facility Renters/User Groups. The City shall also require its facility renters and facility user groups (including but not limited to soccer, baseball, softball, swimming, and other sports teams and activities) to adhere to the applicable mandated reporter laws and be responsible for appropriate training of their respective employees and staff.
9. Interim Employees. Any City employee who is appointed or employed on an interim or temporary basis in any of the positions listed in Section 2.6 above is considered a “mandated reporter” for purposes of this policy.

D. MANDATED REPORTER RESPONSIBILITIES FOR SUSPECTED ELDER OR DEPENDENT ADULT ABUSE OR NEGLECT

1. Licensed Employees/Police Employees as Mandated Reporters. Any licensed City employee who provides care and services for elder or dependent adults, or any employee of the police department (sworn and non-sworn) is deemed to be mandated reporters [W & I Code §15630].
2. Non-Licensed Employees. Although not legally required to report, all non-licensed City employees who work with elder or dependent adults are encouraged to report suspected neglect and abuse to their supervisor, to the Police Department, or to the appropriate social services agency as described below in subsection 4.
3. Volunteers and Independent Contractors. All independent contractors and volunteers that work in City programs, including VIPs and reserve officers, that provide elder and dependent adult services are also encouraged to report suspected cases of neglect and abuse to their supervisors, the police department, or the appropriate social services agency as described below in subsection 4.
4. Reporting Procedures. The appropriate reporting agency for elder and dependent adult abuse depends on the location in which the abuse occurred, not the location in which it was discovered. [W & I §15630.]

All mandated reporters who know of or reasonably suspect elder or dependent adult abuse or neglect must comply with the following reporting procedures:

- a. If the suspected abuse or neglect is from services from a long-term care or adult day health care center:
 - i. The mandated reporter must immediately, or as soon as practical, telephone the police department by calling 911, or contact the local Ombudsman program at (831) 655-1334 [W & I §15630(b)(1)(A).]
 - ii. A written report (Attachment C) must be submitted within two working days after the oral report to the local Ombudsman program.
 - b. If the suspected abuse or neglect is not from a long-term care or adult day health care center:
 - i. The mandated reporter must immediately, or as soon as practical, make a telephone report to the County's Adult Protective Services at (831) 755-4466 (Salinas) or (831) 883-7565 (Peninsula).
 - ii. A written report (Attachment B) must be submitted within two working days after the oral report to Adult Protective Services.
5. Facility Renters/User Groups. The City shall also require its facility renters and facility user groups to adhere to the applicable mandated reporter laws and be responsible for appropriate training of their respective employees and staff.

E. ACKNOWLEDGMENT OF POSITION; TRAINING

1. Acknowledgment. Upon employment or retention by the City of an individual who is determined to be a mandated reporter in connection with the law and this policy, the individual shall sign an acknowledgement (Attachment C) which states that the individual is aware of the mandated reporter requirements under Penal Code § 11166.
2. The original signed acknowledgement form shall be placed in the employee's personnel file.
3. Training. Each City Department shall be responsible for providing periodic training to staff as necessary for identifying potential indicators of abuse and neglect to children, elders or dependent abuse.

F. CONTENTS AND DISCLOSURE OF MANDATED REPORTER REPORT

1. Contents of Report Regarding Suspected Child Abuse/Neglect. Reports of suspected abuse or neglect of a child, dependent adult or elder shall be made on the form attached as Attachment A and shall include the following:
 - Name, business address, telephone number and City position/title of mandated reporter;
 - The information that gave rise to the reasonable suspicion of abuse and neglect and the source(s) of that information;
 - If known, the child's name, elder's name, or adult dependent's name, address and telephone number, school, grade or class, the telephone number and addresses of parents/guardians;
 - If known, other relevant personal information about the person(s) who might have abused or neglected the child, elder or dependent adult.
2. Contents of Report Regarding Suspected Elder/Dependent Abuse or Neglect. Information relevant to the incident or report of abuse and neglect of either a child, elder or adult dependent may be given to an investigator from an agency that is investigating the suspected case of abuse or neglect on the form attached as Attachment B.
3. Confidentiality. The report and other pertinent information shall be considered confidential and may be given to the investigating licensing agency or the Police Department.
 - a. Any violation of the confidentiality of the report is punishable as a misdemeanor punishable by imprisonment not to exceed six months, a fine of \$500, or both. [Penal Code §11167.5 and W & I Code §15633.]
 - b. The identity of the mandated reporter shall be confidential and disclosed only among agencies receiving or investigating mandated reports.
 - i. No agency shall disclose the identity of any person who makes a mandated report to the City, except with the employee's consent or by court order. [Penal Code § 11167(d)(2).]
4. The mandated reporter should consult with the City Attorney's Office prior to disclosing any reports to another investigating agency or any other agency/party.

G. LIABILITY

1. Mandated reporters who report suspected cases of abuse or neglect are civilly and criminally immune from liability for making such reports. [Penal Code § 11172 and W & I Code § 15634.]

H. PENALTIES FOR FAILURE TO REPORT

1. Any mandated reporter who fails to make a report of suspected abuse and neglect shall be punished by not more than six months in a county jail, a fine of not more than one thousand dollars (\$1,000) or both. [Penal Code § 11166.01(a) and W & I Code § 15630(h).]
2. Any mandated reporter who willfully fails to report abuse or neglect, impedes or inhibits a report of abuse or neglect, where that abuse or neglect results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand (\$5,000) or both. [Penal Code § 11166.01(b) and W & I Code § 15630(h).]

I. FORMS

Attachment A: Mandated Reporter Statutes

Attachment B: Form SOC 341 “Report of Suspected Dependent Adult/Elder Abuse” (with instructions)

Attachment C: Form SS 8572 “Suspected Child Abuse Report” (with instructions)

Attachment D: Acknowledgment of Mandated Reporting Requirements (with Penal and Welfare and Institution Codes)

Attachment A
MANDATED REPORTER STATUTES

Penal Code 11165.7.

- (a) As used in this article, "mandated reporter" is defined as any of the following:
- (1) A teacher.
 - (2) An instructional aide.
 - (3) A teacher's aide or teacher's assistant employed by a public or private school.
 - (4) A classified employee of a public school.
 - (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.
 - (6) An administrator of a public or private day camp.
 - (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
 - (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
 - (9) An employee of a county office of education or the State Department of Education whose duties bring the employee into contact with children on a regular basis.
 - (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
 - (11) A Head Start program teacher.
 - (12) A licensing worker or licensing evaluator employed by a licensing agency, as defined in Section 11165.11.
 - (13) A public assistance worker.
 - (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
 - (15) A social worker, probation officer, or parole officer.
 - (16) An employee of a school district police or security department.
 - (17) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.
 - (18) A district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
 - (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.
 - (20) A firefighter, except for volunteer firefighters.

(21) A physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(22) An emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code. (23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(24) A marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.

(25) An unlicensed marriage and family therapist intern registered under Section 4980.44 of the Business and Professions Code.

(26) A state or county public health employee who treats a minor for venereal disease or any other condition.

(27) A coroner.

(28) A medical examiner or other person who performs autopsies.

(29) A commercial film and photographic print or image processor as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print or image processor" means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, or who prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disk, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints or images for a public agency.

(30) A child visitation monitor. As used in this article, "child visitation monitor" means a person who, for financial compensation, acts as a monitor of a visit between a child and another person when the monitoring of that visit has been ordered by a court of law.

(31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:

(A) "Animal control officer" means a person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(B) "Humane society officer" means a person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

(34) An employee of any police department, county sheriff's department, county probation department, or county welfare department.

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 5.655 of the California Rules of Court.

(36) A custodial officer, as defined in Section 831.5.

(37) A person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.

(38) An alcohol and drug counselor. As used in this article, an "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not, in and of itself, a sufficient basis for reporting child abuse or neglect.

(39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.

(40) A clinical counselor intern registered under Section 4999.42 of the Business and Professions Code

(41) An employee or administrator of a public or private postsecondary institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.

(43) (A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, "commercial computer technician" means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.

(B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the re-ports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a

report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.

(44) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary institutions.

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

(f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

(Amended by Stats. 2012, Ch. 521, Sec. 1.15. Effective January 1, 2013.) ADMINISTRATIVE DIRECTIVE NO. 167 18

Penal Code Section 11166.

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written follow-up report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any non-privileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, “reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. “Reasonable suspicion” does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any “reasonable suspicion” is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

- (2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.
- (3) Any report made by a mandated reporter pursuant to this section shall be known as a mandated report.
- (b) If after reasonable efforts a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone follow-up call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written follow-up report.
- (1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written follow-up report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.
- (2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.
- (3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.
- (4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the State Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report.
- (5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.
- (c) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.
- (d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those

communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e) (1) Any commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practically possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written follow-up report of the incident with a copy of the image or material attached.

(2) Any commercial computer technician who has knowledge of or observes, within the scope of his or her professional capacity or employment, any representation of information, data, or an image, including, but not limited, to any computer hardware, computer software, computer file, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image that is retrievable in perceivable form and that is intentionally saved, transmitted, or organized on an electronic medium, depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images or material are seen. As soon as practicably possible after receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written follow-up report of the incident with a brief description of the images or materials.

(3) For purposes of this article, "commercial computer technician" includes an employee designated by an employer to receive reports pursuant to an established reporting process authorized by subparagraph (B) of paragraph (41) of subdivision (a) of Section 11165.7.

- (4) As used in this subdivision, “electronic medium” includes, but is not limited to, a recording, CD-ROM, magnetic disk memory, magnetic tape memory, CD, DVD, thumb drive, or any other computer hardware or media.
- (5) As used in this subdivision, “sexual conduct” means any of the following:
- (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.
 - (B) Penetration of the vagina or rectum by any object.
 - (C) Masturbation for the purpose of sexual stimulation of the viewer.
 - (D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
 - (E) Exhibition of the genitals, pubic, or rectal areas of any person for the purpose of sexual stimulation of the viewer.
- (f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).
- (g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, “any other person” includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.
- (h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.
- (i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.
- (2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.
- (3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.
- (j) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney’s office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent’s substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36

hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone re-port under this subdivision.

(Amended by Stats. 2012, Ch. 521, Sec. 2.5. Effective January 1, 2013.)

Penal Code Section 11167.

(a) Reports of suspected child abuse or neglect pursuant to Section 11166 or Section 11166.05 shall include the name, business address, and telephone number of the mandated reporter; the capacity that makes the person a mandated reporter; and the information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information. If a report is made, the following information, if known, shall also be included in the report: the child's name, the child's address, present location, and, if applicable, school, grade, and class; the names, addresses, and telephone numbers of the child's parents or guardians; and the name, address, telephone number, and other relevant personal information about the person or persons who might have abused or neglected the child. The mandated reporter shall make a report even if some of this information is not known or is uncertain to him or her.

(b) Information relevant to the incident of child abuse or neglect and information relevant to a report made pursuant to Section 11166.05 may be given to an investigator from an agency that is investigating the known or suspected case of child abuse or neglect.

(c) Information relevant to the incident of child abuse or neglect, including the investigation report and other pertinent materials, and information relevant to a report made pursuant to Section 11166.05 may be given to the licensing agency when it is investigating a known or suspected case of child abuse or neglect.

(d) (1) The identity of all persons who report under this article shall be confidential and disclosed only among agencies receiving or investigating mandated reports, to the prosecutor in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code, or to the county counsel or prosecutor in a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse or neglect in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

(2) No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person's employer, except with the employee's consent or by court order.

(e) Notwithstanding the confidentiality requirements of this section, a representative of a child protective services agency performing an investigation that results from a report of suspected child abuse or neglect made pursuant to Section 11166 or Section 11166.05, at the time of the initial contact with the individual who is subject to the investigation, shall advise the individual of the complaints or allegations against him or her, in a manner that is consistent with laws protecting the identity of the reporter under this article.

(f) Persons who may report pursuant to subdivision (g) of Section 11166 are not required to include their names.

(Amended by Stats. 2010, Ch. 95, Sec. 1. Effective January 1, 2011.)

Welfare and Institutions Code Sections 15630 - 15632.

a) Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

b) (1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days.

(A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:

(i) If the suspected abuse results in serious bodily injury, a telephone report shall be made to the local law enforcement agency immediately, but also no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

(ii) If the suspected abuse does not result in serious bodily injury, a telephone report shall be made to the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

(iii) When the suspected abuse is allegedly caused by a resident with a physician's diagnosis of dementia, and there is no serious bodily injury, as reasonably determined

by the mandated reporter, drawing upon his or her training or experience, the reporter shall report to the local ombudsman or law enforcement agency by telephone, immediately or as soon as practicably possible, and by written report, within 24 hours.

(iv) When applicable, reports made pursuant to clauses (i) and (ii) shall be deemed to satisfy the reporting requirements of the federal Elder Justice Act of 2009, as set out in Subtitle H of the federal Patient Protection and Affordable Care Act (Public Law 111-148), Section 1418.91 of the Health and Safety Code, and Section 72541 of Title 22 of California Code of Regulations. When a local law enforcement agency receives an initial report of suspected abuse in a long-term care facility pursuant to this subparagraph, the local law enforcement agency may coordinate efforts with the local ombudsman to provide the most immediate and appropriate response warranted to investigate the mandated report. The local ombudsman and local law enforcement agencies may collaborate to develop protocols to implement this subparagraph.

(B) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, or any other law, the department may implement subparagraph (A), in whole or in part, by means of all-county letters, provider bulletins, or other similar instructions without taking regulatory action.

(C) If the suspected or alleged abuse is abuse other than physical abuse, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, a telephone report and a written report shall be made to the local ombudsman or the local law enforcement agency.

D) With regard to abuse reported pursuant to subparagraph (C), the local ombudsman and the local law enforcement agency shall, as soon as practicable, except in the case of an emergency or pursuant to a report required to be made pursuant to clause (v), in which case these actions shall be taken immediately, do all of the following:

(i) Report to the State Department of Public Health any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day program, as defined in paragraph (2) of subdivision (a) of Section 1502 of the Health and Safety Code.

(iii) Report to the State Department of Public Health and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(v) Report all cases of known or suspected physical abuse and financial abuse to the local district attorney's office in the county where the abuse occurred.

(E) (i) If the suspected or alleged abuse or neglect occurred in a state mental hospital or a state developmental center, and the suspected or alleged abuse or neglect resulted in any of the following incidents, a report shall be made immediately, but no later than within two hours of

the mandated reporter observing, obtaining knowledge of, or suspecting abuse, to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, and also to the local law enforcement agency:

I) A death.

(II) A sexual assault, as defined in Section 15610.63.

(III) An assault with a deadly weapon, as described in Section 245 of the Penal Code, by a nonresident of the state mental hospital or state developmental center.

(IV) An assault with force likely to produce great bodily injury, as described in Section 245 of the Penal Code.

(V) An injury to the genitals when the cause of the injury is undetermined.

(VI) A broken bone when the cause of the break is undetermined.

(ii) All other reports of suspected or alleged abuse or neglect that occurred in a state mental hospital or a state developmental center shall be made immediately, but no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting abuse, to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, or to the local law enforcement agency.

(iii) When a local law enforcement agency receives an initial report of suspected or alleged abuse or neglect in a state mental hospital or a state developmental center pursuant to clause (i), the local law enforcement agency shall coordinate efforts with the designated investigators of the State Department of State Hospitals or the State Department of Developmental Services to provide the most immediate and appropriate response warranted to investigate the mandated report. The designated investigators of the State Department of State Hospitals or the State Department of Developmental Services and local law enforcement agencies may collaborate to develop protocols to implement this clause.

(iv) Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

(v) Notwithstanding any other law, a mandated reporter who is required to report pursuant to Section 4427.5 shall not be required to report under clause (i).

(F) If the abuse has occurred in any place other than a long-term care facility, a state mental hospital, or a state developmental center, the report shall be made to the adult protective services agency or the local law enforcement agency.

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph

(1). For purposes of this subdivision, "penitential communication" means a communication that is intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization is authorized or accustomed to hear those communications and under the discipline tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(B) This subdivision shall not be construed to modify or limit a clergy member's duty to report known or suspected elder and dependent adult abuse if he or she is acting in the capacity of a care custodian, health practitioner, or employee of an adult protective services agency.

(C) Notwithstanding any other provision in this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(3) (A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident if all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.

(iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

(B) This paragraph shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.

(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident if all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

(B) This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Public Health determines, upon approval by the Bureau of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsman, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsman program. Except in an emergency, the local ombudsman shall report any case of known or suspected abuse to the State Department of Public Health and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of State Hospitals or the State Department of Developmental Services or to a local law enforcement agency. Except in an emergency, the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.

(5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.

(d) If two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and there is agreement among them, the telephone report or Internet report, as authorized by Section 15658, may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(e) A telephone report or Internet report, as authorized by Section 15658, of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder's or dependent adult's care, the nature and extent of the elder's or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

(g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.

- (2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.
- (3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other provision of state or federal law.
- (h) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report, or impedes or inhibits a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, if that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a law enforcement agency specified in paragraph (1) of subdivision (b) of Section 15630 discovers the offense.
- (i) For purposes of this section, "dependent adult" shall have the same meaning as in Section 15610.23.
- 15630.1. (a) As used in this section, "mandated reporter of suspected financial abuse of an elder or dependent adult" means all officers and employees of financial institutions.
- (b) As used in this section, the term "financial institution" means any of the following:
- (1) A depository institution, as defined in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).
 - (2) An institution-affiliated party, as defined in Section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(u)).
 - (3) A federal credit union or state credit union, as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. Sec. 1752), including, but not limited to, an institution-affiliated party of a credit union, as defined in Section 206(r) of the Federal Credit Union Act (12 U.S.C. Sec. 1786(r)).
- (c) As used in this section, "financial abuse" has the same meaning as in Section 15610.30.
- (d) (1) Any mandated reporter of suspected financial abuse of an elder or dependent adult who has direct contact with the elder or dependent adult or who reviews or approves the elder or dependent adult's financial documents, records, or transactions, in connection with providing financial services with respect to an elder or dependent adult, and who, within the scope of his or her employment or professional practice, has observed or has knowledge of an incident, that is directly related to the transaction or matter that is within that scope of employment or professional practice, that reasonably appears to be financial abuse, or who reasonably suspects that abuse, based solely on the information before him or her at the time of reviewing or approving the document, record, or transaction in the case of mandated reporters who do not have direct contact with the elder or dependent adult, shall report the known or suspected instance of financial abuse by telephone or through a confidential Internet reporting tool, as

authorized pursuant to Section 15658, immediately, or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days to the local adult protective services agency or the local law enforcement agency.

(2) When two or more mandated reporters jointly have knowledge or reasonably suspect that financial abuse of an elder or a dependent adult for which the report is mandated has occurred, and when there is an agreement among them, the telephone report or Internet report, as authorized by Section 15658, may be made by a member of the reporting team who is selected by mutual agreement. A single report may be made and signed by the selected member of the reporting team. Any member of the team who has knowledge that the member designated to report has failed to do so shall thereafter make that report.

(3) If the mandated reporter knows that the elder or dependent adult resides in a long-term care facility, as defined in Section 15610.47, the report shall be made to the local ombudsman or local law enforcement agency.

(e) An allegation by the elder or dependent adult, or any other person, that financial abuse has occurred is not sufficient to trigger the reporting requirement under this section if both of the following conditions are met:

(1) The mandated reporter of suspected financial abuse of an elder or dependent adult is aware of no other corroborating or independent evidence of the alleged financial abuse of an elder or dependent adult. The mandated reporter of suspected financial abuse of an elder or dependent adult is not required to investigate any accusations.

(2) In the exercise of his or her professional judgment, the mandated reporter of suspected financial abuse of an elder or dependent adult reasonably believes that financial abuse of an elder or dependent adult did not occur.

(f) Failure to report financial abuse under this section shall be subject to a civil penalty not exceeding one thousand dollars (\$1,000) or if the failure to report is willful, a civil penalty not exceeding five thousand dollars (\$5,000), which shall be paid by the financial institution that is the employer of the mandated reporter to the party bringing the action. Subdivision (h) of Section 15630 shall not apply to violations of this section.

(g) (1) The civil penalty provided for in subdivision (f) shall be recovered only in a civil action brought against the financial institution by the Attorney General, district attorney, or county counsel. No action shall be brought under this section by any person other than the Attorney General, district attorney, or county counsel. Multiple actions for the civil penalty may not be brought for the same violation.

(2) Nothing in the Financial Elder Abuse Reporting Act of 2005 shall be construed to limit, expand, or otherwise modify any civil liability or remedy that may exist under this or any other law.

(h) As used in this section, "suspected financial abuse of an elder or dependent adult" occurs when a person who is required to report under subdivision (a) observes or has knowledge of behavior or unusual circumstances or transactions, or a pattern of behavior or unusual circumstances or transactions, that would lead an individual with like training or experience, based on the same facts, to form a reasonable belief that an elder or dependent adult is the victim of financial abuse as defined in Section 15610.30.

(i) Reports of suspected financial abuse of an elder or dependent adult made by an employee or officer of a financial institution pursuant to this section are covered under subdivision (b) of Section 47 of the Civil Code.

15631. (a) Any person who is not a mandated reporter under Section 15630, who knows, or reasonably suspects, that an elder or a dependent adult has been the victim of abuse may report that abuse to a long-term care ombudsman program or local law enforcement agency, or both the long-term care ombudsman program and local law enforcement agency when the abuse is alleged to have occurred in a long-term care facility.

(b) Any person who is not a mandated reporter under Section 15630, who knows, or reasonably suspects, that an elder or a dependent adult has been the victim of abuse in any place other than a long-term care facility may report the abuse to the county adult protective services agency or local law enforcement agency.

15632. (a) In any court proceeding or administrative hearing, neither the physician-patient privilege nor the psychotherapist-patient privilege applies to the specific information reported pursuant to this chapter.

(b) Nothing in this chapter shall be interpreted as requiring an attorney to violate his or her oath and duties pursuant to Section 6067 or subdivision (e) of Section 6068 of the Business and Professions Code, and Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

Attachment B

Form SS 8572 – Suspected Child Abuse form

http://ag.ca.gov/childabuse/pdf/ss_8572.pdf

Attachment C – California Dept of Social Services

Form SOC 341

<http://www.dss.cahwnet.gov/Forms/English/SOC341.pdf>

Attachment D

ACKNOWLEDGMENT OF MANDATED REPORTER STATUS AND LEGAL DUTY TO REPORT CHILD ABUSE OR NEGLECT

California law requires certain persons who work with children to report known or suspected child abuse and neglect. These individuals are known under the law as “mandated reporters” and include child care workers, teachers, and coaches. California Penal Code §11166.5(a) requires that all mandated reporters of child abuse and neglect to sign an acknowledgment of their legal duties and that the City retain the signed acknowledgment as part of your personnel record.

When Reporting Abuse is Required:

As a mandated reporter, whenever you, in your professional capacity or within the scope of your employment, reasonably suspect a child to be the victim of child abuse or neglect, you must report the suspected abuse and neglect. Abuse and neglect include observations of:

- Physical abuse
- Sexual abuse
- Child exploitation, child pornography, and child prostitution
- Neglect, such as in the failure to provide adequate nutrition, clothing, shelter, or medical care
- Extreme corporal punishment resulting in injury
- Willful cruelty or unjustifiable punishment

A mandated reporter may make, but is not legally required to make, a report of suspected emotional damage.

How To Make The Report:

There are two steps in the reporting process.

1. A telephone report must be made immediately to either the police department or county child welfare department.
2. A written report, made on the approved form, must be sent within 36 hours after the telephone report has been made.

To Whom Do You Report:

By law, you may report to the police department, sheriff’s department, or child welfare agencies. The City encourages you to also report to the Seaside Police Department if a report is made to a child welfare agency or to another law enforcement agency, as well as notifying your supervisor.

Individual Responsibility:

A mandated reporter is individually responsible to report suspected child abuse and neglect. Two or more mandated reporters may, by mutual agreement, designate one of

themselves to make the report. However, if the mandated reporter becomes aware that the other designated individual failed to report, (even if the other designated individual is a supervisor), then he or she must make the report.

Confidentiality:

Mandated reports are to remain confidential and shall only be disclosed to appropriate investigating agencies. All mandated reporters are required to disclose their names in the report however, child protective agencies are required to keep the mandated reporter's name confidential, unless a court orders the information disclosed.

Mandated reporters are not required to, but may share information suspected abuse and neglect with the supervisor, manager, or Department Director of the mandated reporter.

Immunity:

All mandated reporters are civilly and criminally immune from liability as a result of making a report. No individual may be dismissed, disciplined, or harassed for making a report of suspected child abuse and neglect.

Criminal Liability:

A mandated reporter may be held criminally liable for failing to comply with the mandated reporting laws and reporting requirements and in failing to report suspected abuse and neglect. The penalty for failing to report is up to six months in County jail, a fine of no more than \$1,000, or both. Mandated reporters may also be held civilly liable for damages for a failure to report suspected abuse and neglect.

Acknowledgment:

By signing below, I acknowledge the following:

- Under California Penal Code Section 11165.7, I am a mandated reporter of child abuse and neglect. As a mandated reporter, I understand that I have a legal obligation to report child abuse and neglect and will comply with the law.
- I have been provided copies of California Penal Code Sections 11165.7, 11166, and 11167.
- I have been provided a copy of the City's Mandated Reporter Policy.
- I understand that this signed Acknowledgment will be retained in my personnel file.

Signature

Date

Printed Name