

TITLE 4. PUBLIC CARE SYSTEMS
CHAPTER 13. CHILD ABUSE AND NEGLECT
SUBCHAPTER II. REPORTS OF NEGLECTED CHILDREN

D.C. Code § 4-1321.01 (2008)

§ 4-1321.01. Purpose [Formerly § 2-1351]

It is the purpose of this subchapter to require a report of a suspected neglected child in order to identify neglected children; to assure that protective services will be made available to a neglected child to protect the child and his or her siblings and to prevent further abuse or neglect; and to preserve the family life of the parents and children, to the maximum extent possible, by enhancing the parental capacity for adequate child care.

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D.C. Code § 4-1321.02 (2008)

§ 4-1321.02. Persons required to make reports; procedure [Formerly § 2-1352]

(a) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being a mentally or physically abused or neglected child, as defined in § 16-2301(9), shall immediately report or have a report made of such knowledge or suspicion to either the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(b) Persons required to report such abuse or neglect shall include Child and Family Services Agency employees, agents, and contractors, and every physician, psychologist, medical examiner, dentist, chiropractor, registered nurse, licensed practical nurse, person involved in the care and treatment of patients, law-enforcement officer, school official, teacher, athletic coach, Department of Parks and Recreation employee, public housing resident manager, social service worker, day care worker, and domestic violence counselor as defined in § 14-310(a)(2), and mental health professional as defined in § 7-1201.01(11). Whenever a person is required to report in his or her capacity as a member of the staff of a hospital, school, social agency or similar institution, he or she shall immediately notify the person in charge of the institution or his or her designated agent who shall then be required to make the report. The fact that such a notification has been made does not relieve the person who was originally required to report from his or her duty under subsection (a) of this section of having a report made promptly to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(c) In addition to those persons who are required to make a report, any other person may make a report to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(d) In addition to the requirements in subsections (a) and (b) of this section, any health professional licensed pursuant to Chapter 12 of Title 3, or a law enforcement officer, except an undercover officer whose identity or investigation might be jeopardized, shall report immediately, in writing, to the Child and Family Services Agency, that the law enforcement officer or health professional has reasonable cause to believe that a child is abused as a

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result of inadequate care, control, or subsistence in the home environment due to exposure to drug-related activity. The report shall be in accordance with the provisions of § 4-1321.03.

(e) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been, or is in immediate danger of being, the victim of "sexual abuse" or "attempted sexual abuse" prohibited by § 22-3001 et seq.; or that the child was assisted, supported, caused, encouraged, commanded, enabled, induced, facilitated, or permitted to become a prostitute, as that term is defined in § 22-2701.01(3); or that the child has an injury caused by a bullet; or that the child has an injury caused by a knife or other sharp object which has been caused by other than accidental means, shall immediately report or have a report made of such knowledge, information, or suspicion to the Metropolitan Police Department or the Child and Family Services Agency.

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D.C. Code § 4-1321.03 (2008)

§ 4-1321.03. Nature and contents of reports [Formerly § 2-1353]

(a) Each person required to make a report of a known or suspected neglected child shall:

(1) Immediately make an oral report of the case to the Child and Family Services Agency or the Metropolitan Police Department of the District of Columbia; and

(2) Make a written report of the case if requested by said Division or Police or if the abuse involves drug-related activity.

(b) The report shall include, but need not be limited to, the following information if it is known to the person making the report:

(1) The name, age, sex, and address of the following individuals:

(A) The child who is the subject of the report;

(B) Each of the child's siblings and other children in the household; and

(C) Each of the child's parents or other persons responsible for the child's care;

(2) The nature and extent of the abuse or neglect of the child and any previous abuse or neglect, if known;

(3) All other information which the person making the report believes may be helpful in establishing the cause of the abuse or neglect and the identity of the person responsible for the abuse or neglect; and

(4) If the source was required to report under this subchapter, the identity and occupation of the source, how to contact the source and a statement of the actions taken by the source concerning the child.

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D.C. Code § 4-1321.04 (2008)

§ 4-1321.04. Immunity from liability [Formerly § 2-1354]

Any person, hospital, or institution participating in good faith in the making of a report pursuant to this subchapter shall have immunity from liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of the report. Any such participation shall have the same immunity with respect to participation in any judicial proceeding involving the report. In all civil or criminal proceedings concerning the child or resulting from the report good faith shall be presumed unless rebutted.

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D.C. Code § 4-1321.05 (2008)

§ 4-1321.05. Privileges; waiver [Formerly § 2-1355]

Notwithstanding the provisions of §§ 14-306 and 14-307, neither the husband-wife privilege nor the physician-patient privilege shall be grounds for excluding evidence in any proceeding in the Family Division of the Superior Court of the District of Columbia concerning the welfare of a neglected child; provided, that a judge of the Family Division of the Superior Court of the District of Columbia determines such privilege should be waived in the interest of justice.

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D.C. Code § 4-1321.06 (2008)

§ 4-1321.06. Exceptions for treatment solely by spiritual means [Formerly § 2-1356]

Notwithstanding any other provision of this subchapter, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to have been neglected within the purview of this subchapter.

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D.C. Code § 4-1321.07 (2008)

§ 4-1321.07. Failure to make report [Formerly § 2-1357]

Any person required to make a report under this subchapter who willfully fails to make such a report shall be fined not more than \$ 300 or imprisoned for not more than 90 days or both. Violations of this subchapter shall be prosecuted by the Attorney General for the District of Columbia or his or her agent in the name of the District of Columbia.

TITLE 16. PARTICULAR ACTIONS, PROCEEDINGS AND MATTERS
CHAPTER 23. FAMILY DIVISION [FAMILY COURT] PROCEEDINGS
SUBCHAPTER I. PROCEEDINGS REGARDING DELINQUENCY, NEGLECT, OR NEED OF
SUPERVISION

D.C. Code § 16-2301 (2008)

§ 16-2301. Definitions

As used in this subchapter --

...

(9) The term "neglected child" means a child:

(A) (i) who has been abandoned or abused by his or her parent, guardian, or custodian, or whose parent, guardian, or custodian has failed to make reasonable efforts to prevent the infliction of abuse upon the child. For the purposes of this sub-subparagraph, the term "reasonable efforts" includes filing a petition for civil protection from intrafamily violence pursuant to § 16-1003;

(ii) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his or her physical, mental, or emotional health, and the deprivation is not due to the lack of financial means of his or her parent, guardian, or custodian;

(iii) whose parent, guardian, or custodian is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity;

(iv) whose parent, guardian, or custodian refuses or is unable to assume the responsibility for the child's care, control, or subsistence and the person or institution which is providing for the child states an intention to discontinue such care;

(v) who is in imminent danger of being abused and another child living in the same household or under the care of the same parent, guardian, or custodian has been abused;

(vi) who has received negligent treatment or maltreatment from his or her parent, guardian, or custodian;

(vii) who has resided in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child is ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child;

(viii) who is born addicted or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth;

(ix) in whose body there is a controlled substance as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian; or

(x) who is regularly exposed to illegal drug-related activity in the home.

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(B) No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for that reason alone be considered a neglected child for the purposes of this subchapter.

(C) Subparagraph (A)(viii), (ix), and (x) of this paragraph shall apply as of October 1, 2003.

...

(12) The term "custodian" means a person or agency, other than a parent or legal guardian:

(A) to whom the legal custody of a child has been granted by the order of a court;

(B) who is acting in loco parentis; or

(C) who is a day care provider or an employee of a residential facility, in the case of the placement of an abused or neglected child.

...

(23) The term "abused", when used with reference to a child, means:

(A) (i) infliction of physical or mental injury upon a child;

(ii) sexual abuse or exploitation of a child; or

(iii) negligent treatment or maltreatment of a child.

(B) (i) The term "abused", when used with reference to a child, does not include discipline administered by a parent, guardian or custodian to his or her child; provided, that the discipline is reasonable in manner and moderate in degree and otherwise does not constitute cruelty. For the purposes of this paragraph, the term "discipline" does not include:

(I) burning, biting, or cutting a child;

(II) striking a child with a closed fist;

(III) inflicting injury to a child by shaking, kicking, or throwing the child;

(IV) nonaccidental injury to a child under the age of 18 months;

(V) interfering with a child's breathing; and

(VI) threatening a child with a dangerous weapon or using such a weapon on a child. For purposes of this provision, the term "dangerous weapon" means a firearm, a knife, or any of the prohibited weapons described in § 22-4514.

(ii) The list in sub-subparagraph (i) of this subparagraph is illustrative of unacceptable discipline and is not intended to be exclusive or exhaustive.

...

(24) The term "negligent treatment" or "maltreatment" means failure to provide adequate food, clothing, shelter, or medical care, which includes medical neglect, and the deprivation is not due to the lack of financial means of his or her parent, guardian, or other custodian.

...

(25) The term "sexual exploitation" means a parent, guardian, or other custodian allows a child to engage in prostitution as defined in section 2(1) of the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981, effective December 10, 1981 (D.C. Law 4-57; *D.C. Code* § 22-2701.01 [now § 22-2701.01(3)]), or means a parent, guardian, or other custodian engages a child or allows a child to

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engage in obscene or pornographic photography, filming, or other forms of illustrating or promoting sexual conduct as defined in section 2(5) of the District of Columbia Protection of Minors Act of 1982, effective March 9, 1983 (D.C. Law 4-173; *D.C. Code § 22-3101(5)*).

...

(30) The term "physical injury" means bodily harm greater than transient pain or minor temporary marks.

...

(31) The term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal, or outwardly aggressive behavior, or a combination of those behaviors, and which may be demonstrated by a change in behavior, emotional response, or cognition.

...

(32) The term "sexual abuse" means:

- (A) engaging in, or attempting to engage in, a sexual act or sexual contact with a child;
- (B) causing or attempting to cause a child to engage in sexually explicit conduct; or
- (C) exposing a child to sexually explicit conduct.

...

(33) The term "sexually explicit conduct" means actual or simulated:

- (A) sexual act;
- (B) sexual contact;
- (C) bestiality;
- (D) masturbation; or
- (E) lascivious exhibition of the genitals, anus, or pubic area.

...

(34) The term "sexual act" shall have the same meaning as provided in § 22-3001(8).

...

(35) The term "sexual contact" shall have the same meaning as provided in § 22-3001(9).

...

(36) The term "controlled substance" means a drug or chemical substance, or immediate precursor, as set forth in Schedules I through V of § 48-901.01 et seq., which has not been prescribed by a physician.

...

(37) The term "drug-related activity" means the use, sale, distribution, or manufacture of a drug or drug paraphernalia without a legally valid license or medical prescription.

§ 16-2316. Conduct of hearings; evidence

...

(d) (1) Where the petition alleges a child is abandoned as referred to in *section 16-2301(9)(A)*, as amended by this act, the following evidence shall be sufficient to justify an inference of neglect:

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(A) the child is a foundling whose parents have made no effort to maintain a parental relationship with the child and reasonable efforts have been made to identify the child and to locate the parents for a period of at least four (4) weeks since the child was found;

(B) the child's parent gave a false identity at the time of the child's birth, since then has made no effort to maintain a parental relationship with the child and reasonable efforts have been made to locate the parent for a period of at least four (4) weeks since his or her disappearance;

(C) the child's parent, guardian or custodian is known but has abandoned the child in that he or she has made no reasonable effort to maintain a parental relationship with the child for a period of at least four (4) months; or

(D) the child has resided in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child was ready for discharge from the hospital, and the parent, guardian, or custodian of the child did not undertake any action or make any effort to maintain a parental, guardianship, or custodial relationship or contact with the child.