

Explanation of the Reporting and Referrals to Law Enforcement Charts Series

(Laws current as of 12/31/06)

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Research conducted on Westlaw compliments of West Group

The charts address the adult protective services (APS) laws for each state, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. This explanation and the charts refer to these jurisdictions generically as “state” or “states.”

Unless otherwise indicated, this explanation (1) uses the term “abuse” generally to include abuse, neglect, and exploitation, and (2) uses “elder abuse” to include elder abuse and adult abuse.

CAUTION: It is unclear whether state mandatory reporting laws apply to federal employees. Guidance should be sought from appropriate federal personnel.

CAUTION: These charts are based only on the state APS laws; APS regulations were not reviewed. It is important to recognize that there may be other state laws or regulations or federal laws or regulations that address the issues covered by these charts.

NOTE: A few states have multiple laws. Some of those states have separate elder protective services (EPS) laws and APS laws, and those laws are designated in the charts by following the state abbreviation with “EPS” or “APS.” Some states have more than one APS law, and those laws are designated in the charts by following the state abbreviation with #1 or #2. Unless otherwise indicated in this explanation or the charts, both APS and EPS laws will generally be referred to as APS laws.

CAUTION: It is unclear whether state mandatory reporting laws apply to federal employees. Guidance should be sought from appropriate federal personnel.

I. Why We Developed These Charts

These charts address two questions: (1) whether a report made to APS must also be made to law enforcement, and (2) under what circumstances must or may APS refer a reported case to law enforcement. The answers to these questions are complex, as the laws governing reporting are very diverse in content and structure and extremely challenging to categorize and explain. Nonetheless, the information imparted by the answers is important to individuals who are mandated or who wish to report suspected elder abuse and to victims of elder abuse or people who are concerned about them. Mandated reporters need to know whether they are required by state law to report suspected elder abuse to a law enforcement agency in addition to APS. Individuals who consider reporting suspected elder abuse to APS—whether they are professionals who counsel or work in other ways with victims, family members or friends of victims, or victims themselves—need to know if the act of making a report to APS will result in a report by APS professionals to a law enforcement agency. Additionally, state and federal

legislative staff, other policy makers, educators, researchers, and reporters often want to know the answers to these questions.

II. Detailed Explanation of the Reporting and Referrals to Law Enforcement Charts Series

There are three charts in this series:

1. “Reports and Referrals to Law Enforcement: Provisions and Citations in Adult Protective Services Laws, by State”;
2. “Requirements that Reports Made to Adult Protective Services Also be Made Simultaneously to Law Enforcement: Comparison Chart of Provisions in Adult Protective Services Laws, by State”; and
3. “Circumstances under which Adult Protective Services Must or May Subsequently Refer a Reported Case to Law Enforcement: Comparison Chart of Provisions in Adult Protective Services Laws, by State.”

The charts are explained below. A general description of each chart is followed by an explanation of how to read the chart.

A. “Reports and Referrals to Law Enforcement: Provisions and Citations in Adult Protective Services Laws, by State”

1. General Description of Chart

This chart provides the provisions in each state’s APS law that answer the following two questions: (1) Must a report made to APS also be made simultaneously to law enforcement? and (2) Under what circumstances must or may APS subsequently refer a reported case to law enforcement? If there is no relevant provision, that is indicated.

The issue addressed by the first question relates only peripherally to the issue of mandatory reporting because a state with a voluntary reporting law may require that a person voluntarily reporting to APS must also report to law enforcement and a state with a mandatory reporting law may have no such requirement. Nonetheless, the states that have voluntary reporting laws are indicated. For more information about mandatory reporting, see the Mandatory Reporting to Adult Protective Services charts available online at <http://www.abanet.org/aging/about/elderabuse.shtml>.

These charts relate only to reports made to and investigated by APS. In some states, the APS laws indicate that other agencies, such as the long-term care ombudsman program or the licensure and certification agency, receive reports about and investigate allegations of elder abuse in certain settings such as long-term care facilities or state mental hospitals. Those provisions are not the focus of this series and have been excluded from the provisions chart unless removing them could lead to an incorrect or incomplete understanding of the provisions related to this chart. South Carolina’s first provision regarding whether reports to APS must also

be made to law enforcement provides a good example of such a situation. Removing sub-parts (1) and (2) would make it impossible to understand sub-part (3), the provision relevant to the first two charts in this series.

2. How to Read the Chart

If a state has more than one APS law or separate EPS and APS laws, then those situations are clearly identified in the left column where the state is indicated. There may be multiple relevant provisions in a state's law; if so, they are separated by a line. A citation is provided for each provision.

B. "Requirements that Reports Made to Adult Protective Services Also be Made Simultaneously to Law Enforcement: Comparison Chart of Provisions in Adult Protective Services Laws, by State."

1. General Description of Chart

This chart categorizes the statutory provisions that answer the question of whether state APS laws require that a report made to APS must also be made to law enforcement. It contains the following five categories:

- a. Initial reports required to be filed with APS only
- b. Initial reports required to be filed with APS and LE
- c. Initial reports required to be filed with APS or LE
- d. No provision
- e. Law does not address reporting.

This chart allows readers to quickly assess their state's requirement and to determine the requirement in other states. The categories used, however, are broad, and must be interpreted in conjunction with the statutory provisions provided in the "Reports and Referrals to Law Enforcement: Provisions and Citations in Adult Protective Services Laws, by State" chart. Many of the states in the second and third categories have limitations in their provisions. For example, states in the APS and law enforcement category may require that reports be made to both agencies only in certain circumstances, such as when sexual assault is suspected or serious injury or death has occurred. States in the APS or law enforcement category often indicate that reports should be made to law enforcement agency during the APS agency's non-business hours.

2. How to Read the Chart

If a state has more than one APS law or separate EPS and APS laws, then those situations are clearly identified in the left column where the state is listed.

As discussed previously, a state's law may have multiple relevant provisions. Additionally, some provisions contain multiple requirements, and those multiple requirements may fall into one category or into multiple categories. In each of these situations, all relevant categories are indicated with an "X." When multiple provisions fall into one category, an "X/X" is used.

As in the “Reports and Referrals to Law Enforcement: Provisions and Citations in Adult Protective Services Laws, by State” chart, states that have voluntary reporting laws are highlighted in pink.

C. “Circumstances under which Adult Protective Services Must or May Subsequently Refer a Reported Case to Law Enforcement: Comparison Chart of Provisions in Adult Protective Services Laws, by State”

1. General Description of Chart

This chart categorizes the statutory provisions that answer the question of under what circumstances must or may APS refer a reported case to law enforcement. It contains the following nine categories:

- a. All reports;
- b. When APS has reasonable cause to believe a person who has refused APS needs APS;
- c. When appropriate;
- d. When crime is known or suspected;
- e. When death, injury or harm resulted;
- f. When reports are substantiated or believed to be true;
- g. When reports of designated forms of abuse or injury are made;
- h. No provision; and
- i. Law does not address reporting.

This chart allows readers to quickly assess their state’s requirement(s) and to determine the requirements in other states. It also indicates whether APS is mandated to refer reports to law enforcement or may exercise discretion about doing so. The nine categories are broad and must be interpreted in conjunction with the statutory provisions provided in the “Reports and Referrals to Law Enforcement: Provisions and Citations in Adult Protective Services Laws, by State” chart. Particularly in the fifth and seventh categories, statutory provisions indicate specific types of reports that must or may be referred to law enforcement. For example, a few states require that any case involving abuse, neglect, or exploitation by a second party be referred to law enforcement. In other states, only cases in which death or serious injury resulted or in which physical or sexual abuse occurred should be referred to law enforcement.

2. How to Read the Chart

If a state has more than one APS law or separate EPS and APS laws, then those situations are clearly identified in the left column where the state is indicated.

As discussed previously, a state’s law may have multiple relevant provisions. Additionally, some provisions contain multiple conditions, and those conditions may fall into one category or into multiple categories. In each of those situations, all relevant categories are indicated. For the first seven categories, the chart uses “M” or “D” to indicate whether a state’s provision is mandatory or discretionary. For the latter two categories, “X” is used. When

multiple provisions fall into one category, a forward slash (“/”) is used between the appropriate letters.

As in the “Reports and Referrals to Law Enforcement: Provisions and Citations in Adult Protective Services Laws, by State” chart, states that have voluntary reporting laws are highlighted in pink.

III. If You Find An Error

We strived to be consistent in our interpretation and categorization of the statutes. Despite our best efforts, we may have made errors. It is also possible that APS or other professionals interpret a statute differently than we did or there are state regulations or policies that lead to a different interpretation. Additionally, state laws may have changed since December 31, 2006. If you think we erred or your state has a regulation or policy that leads to a different interpretation, please contact Lori Stiegel of the American Bar Association Commission on Law and Aging at lstiegel@staff.abanet.org or 202-662-8692.

¹ The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association.

² This document was completed for the National Center on Elder Abuse and supported in part by a grant, No. 90AM2792, from the Administration on Aging, U.S. Department of Health and Human Services. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Therefore, points of view or opinions do not necessarily represent official Administration on Aging policy.