



# **Why Training Educators on Youth Suicide Awareness and Prevention Is Important**

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**Responsibilities of a “First Responder”**

**Under**

**Federal Child Abuse and Neglect Laws**

**And**

**Arkansas Child Abuse and Neglect Laws**



# ***How is Child Abuse and Neglect Defined in Federal Law? <sup>1</sup>***

Federal legislation lays the groundwork for State laws on child maltreatment by identifying a minimum set of acts or behaviors that define child abuse and neglect. The Federal Child Abuse Prevention and Treatment Act (CAPTA), (42 U.S.C.A 5106g), as amended and reauthorized by the CAPTA Reauthorization Act of 2010, defines child abuse and neglect as, at minimum:

*“Any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or an act or failure to act which presents an imminent risk of serious harm.”*

As relating to issues surrounding suicidal ideation, suicide attempts or suicides we need to explore specifically the area of “Neglect.”

**Neglect** is the failure of a parent, guardian, or other caregiver to provide for a child’s basic needs. Neglect may be: <sup>2</sup>

Physical (e.g., failure to provide necessary food or shelter, or lack of appropriate supervision)

Medical (e.g., failure to provide necessary medical or mental health treatment)<sup>2</sup>

Educational (e.g., failure to educate a child or attend to special education needs)

**Emotional** (e.g., inattention to a child’s emotional needs, failure to provide psychological care, or permitting the child to use alcohol or other drugs)

And under law, who is responsible to report Child Abuse or Neglect (First Responder): <sup>3</sup>

## **Professionals Required to Report**

Approximately 48 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands designate professions whose members are mandated by law to report child maltreatment.<sup>1</sup> Individuals designated as mandatory reporters typically have frequent contact with children. Such individuals may include:

- Social workers
- Teachers, principals, and other school personnel
- Physicians, nurses, and other health-care workers
- Counselors, therapists, and other mental health professionals
- Child care providers
- Medical examiners or coroners
- Law enforcement officers

## What about my state -Arkansas?

### Child Abuse and Neglect

#### Definitions of Child Abuse and Neglect

To better understand this issue and to view it across States, download the [PDF](#) (587 KB) of this publication.

#### Physical Abuse

**Citation: Ann. Code § 12-18-103**

'Abuse' means:

- Extreme or repeated cruelty to a child
- Engaging in conduct creating a realistic and serious threat of death, permanent or temporary disfigurement, or impairment of a bodily organ
- An injury that is at variance with the history given
- Any nonaccidental physical injury
- Any of the following acts with physical injury:
  - Throwing, kicking, burning, biting, or cutting a child
  - Striking a child with a closed fist
  - Shaking a child
  - Striking a child on the face or head
- Any of the following acts with or without physical injury:
  - Striking a child age 6 or younger on the face or head
  - Shaking a child age 3 or younger
  - Interfering with a child's breathing
  - Pinching, biting, or striking a child in the genital area
  - Tying a child to a fixed or heavy object or binding or tying a child's limbs together
  - Giving a child or permitting a child to consume or inhale a poisonous or noxious substance not prescribed by a physician that has the capacity to interfere with normal physiological functions
  - Giving a child or permitting a child to consume or inhale a substance not prescribed by a physician that has the capacity to alter the mood of the child, including, but not limited to, marijuana, alcohol for use other than during a recognized and established religious ceremony, a narcotic, or an over-the-counter drug if a person purposely administers an overdose or an inappropriate drug and the child is detrimentally affected
- Exposing a child to dangerous chemicals including, but not limited to, a chemical used or generated during the manufacture of methamphetamine
- Subjecting a child to Munchausen syndrome by proxy or a factitious illness by proxy if the incident is confirmed by medical personnel

## **Neglect**

**Citation: Ann. Code § 12-18-103**

'Neglect' means failure or refusal to:

- Prevent abuse of the child when the person knows or has reasonable cause to know the child is or has been abused
- Provide necessary food, clothing, shelter, and education required by law, or medical treatment necessary for the child's well-being
- Take reasonable action to protect the child from abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness when the existence of the condition was known or should have been known
- Provide for essential and necessary physical, mental, or emotional needs of the child, including the failure to provide a shelter that does not pose a risk to the health or safety of the child
- Provide for the child's care and maintenance, proper or necessary support, or medical, surgical, or other necessary care
- Assume responsibility for the care and custody of the child or to participate in a plan to assume such responsibility
- Appropriately supervise the child that results in the child being left alone at an inappropriate age or in inappropriate circumstances creating a dangerous situation or a situation that puts the child at risk of harm

'Neglect' shall also include:

- Causing a child to be born with an illegal substance in the child's bodily fluids or bodily substances as a result of the pregnant mother knowingly using an illegal substance before the birth of the child
- At the time of the birth of a child, the presence of an illegal substance in the mother's bodily fluids or bodily substances as a result of the pregnant mother knowingly using an illegal substance before the birth of the child

An 'illegal substance' is a drug that is prohibited to be used or possessed without a prescription.

A test of the child's or the mother's bodily fluids or bodily substances may be used as evidence to establish neglect.

## **Sexual Abuse/Exploitation**

**Citation: Ann. Code § 12-18-103**

'Sexual abuse' means:

- By a person age 10 or older to a person younger than age 18:
  - Sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion
  - Attempted sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion
  - Indecent exposure
  - Forcing the watching of pornography or live sexual activity
- By a person age 18 or older to a person not his or her spouse who is younger than age 16:
  - Sexual intercourse, deviate sexual activity, or sexual contact
  - Attempted sexual intercourse, deviate sexual activity, or sexual contact
- By a caregiver to a person younger than age 18:
  - Sexual intercourse, deviate sexual activity, or sexual contact
  - Attempted sexual intercourse, deviate sexual activity, or sexual contact
  - Forcing or encouraging the watching of pornography
  - Forcing, permitting, or encouraging the watching of live sexual activity
  - Forcing the listening to a phone sex line
  - An act of voyeurism
- By a person younger than age 10 to a person younger than age 18:
  - Sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion
  - Attempted sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion

'Sexual contact' means an act of sexual gratification involving:

- Touching, directly or through clothing, the sex organs, buttocks, or anus of a person or the breast of a female
- Encouraging of a child to touch the offender in a sexual manner
- The offender requesting to touch a child in a sexual manner

'Sexual exploitation' means:

- Allowing, permitting, or encouraging participation or depiction of the child in prostitution, obscene photography, or obscene filming
- Obscenely depicting, posing, or posturing a child for any use or purpose

## **Emotional Abuse**

**Citation: Ann. Code § 12-18-103**

The term 'abuse' includes acts or omissions that result in injury to a child's intellectual, emotional, or psychological development, as evidenced by observable and substantial impairment of the child's ability to function within the child's normal range of performance and

behavior.

### **Abandonment**

**Citation: Ann. Code § 12-18-103**

'Abandonment' means:

- Failure of the parent to provide reasonable support and to maintain regular contact with the child through statement or contact, when the failure is accompanied by an intention on the part of the parent to permit the condition to continue for an indefinite period in the future
- Failure to support or maintain regular contact with the child without just cause
- An articulated intent to forgo parental responsibility

### **Standards for Reporting**

**Citation: Ann. Code § 12-18-402**

A report is required when there is reasonable cause to suspect that a child has been subjected to child maltreatment.

### **Persons Responsible for the Child**

**Citation: Ann. Code § 12-18-103**

Responsible persons include:

- A parent, guardian, or custodian
- A foster parent
- A person age 18 or older living in the child's home, whether related or unrelated
- A person who is entrusted with the child's care, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible for the child's welfare

### **Exceptions**

**Citation: Ann. Code § 12-18-103**

Abuse does not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes of restraining or correcting the child.

Abuse shall not include when a child suffers transient pain or minor temporary marks as the result of an appropriate restraint if:

- The person exercising the restraint is an employee of an agency licensed or exempted from licensure under the Child Welfare Agency Licensing Act.
- The agency has policy and procedures regarding restraints.
- No alternative exists to control the child except for a restraint.
- The child is in danger or hurting himself or herself or others.
- The person exercising the restraint has been trained properly in restraining children, de-escalation, and conflict resolution techniques.
- The restraint is for a reasonable period of time.
- The restraint is in conformity with training and agency policy and procedures.

Reasonable and moderate physical discipline inflicted by a parent or guardian shall not include an act that is likely to cause and that does cause injury more serious than transient pain or minor temporary marks.

The age, size, and condition of the child, the location of the injury, and the frequency or recurrence of injuries shall be considered when determining whether the physical discipline is reasonable or moderate.

It is not considered neglect when the parent's failure to provide for the child's needs is due to financial inability, and no services or relief have been offered.

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## **Mandatory Reporters of Child Abuse and Neglect**

To better understand this issue and to view it across States, download the [PDF](#) (380 KB) of this publication.

### **Professionals Required to Report**

**Citation: Ann. Code § 12-18-402**

The following individuals are mandated reporters:

- Child care, daycare, or foster care workers
- Coroners
- Dentists, dental hygienists
- Domestic abuse advocates and domestic violence shelter employees or volunteers
- Employees of the Department of Human Services
- Employees working under contract for the Division of Youth Services of the Department of Human Services
- Foster parents
- Judges, law enforcement officials, peace officers, and prosecuting attorneys
- Licensed nurses, physicians, mental health professionals, surgeons, resident interns, osteopaths, and medical personnel who may be engaged in the admission, examination, care, or treatment of persons

- School counselors, officials, and teachers
- Social workers and juvenile intake or probation officers
- Court-appointed special advocate program staff members or volunteers
- Attorneys *ad litem*
- Clergy members
- Employees of a child advocacy center or a child safety center
- Sexual abuse advocates or volunteers who work with victims of sexual abuse as employees of a community-based victim service or mental health agency such as Safe Places, United Family Services, or Centers for Youth and Families
- Rape crisis advocates or volunteers
- Child abuse advocates or volunteers who work with child victims of abuse or maltreatment as employees of a community-based victim service or a mental health agency
- Victim/witness coordinators
- Victim assistance professionals or volunteers

### **Reporting by Other Persons**

**Citation: Ann. Code § 12-18-401**

Any person who has reasonable cause to suspect child maltreatment may report.

### **Standards for Making a Report**

**Citation: Ann. Code § 12-18-402**

An individual listed as a mandatory reporter shall immediately notify the Child Abuse Hotline if he or she:

- Has reasonable cause to suspect that a child has been subjected to maltreatment or died as a result of maltreatment
- Observes a child being subjected to conditions or circumstances that would reasonably result in maltreatment

### **Privileged Communications**

**Citation: Ann. Code §§ 12-18-402(c); 12-18-803**

A privilege or contract shall not prevent a person from reporting child maltreatment when he or she is a mandated reporter and required to report under this section.

No privilege, except that between a lawyer and a client and between a minister, including a Christian Science practitioner, and a person confessing to or being counseled by a minister, shall prevent anyone from testifying concerning child maltreatment.

When a physician, psychologist, psychiatrist, counselor, or therapist conducts interviews with or provides therapy to a subject of a report of suspected child maltreatment for purposes related to child maltreatment, the physician, psychologist, psychiatrist, licensed counselor, or therapist is deemed to be performing services on behalf of the child.

An adult subject of a report of suspected child maltreatment cannot invoke privilege on the child's behalf.

### **Inclusion of Reporter's Name in Report**

**Citation: Ann. Code § 12-18-302**

A mandated reporter may report child maltreatment or suspected child maltreatment by telephone call, facsimile transmission, or online reporting.

Facsimile transmission and online reporting may be used in nonemergency situations by an identified mandated reporter who provides the following contact information:

- Name and phone number
- In the case of online reporting, his or her email address

A mandated reporter who wishes to remain anonymous shall make a report through the toll-free Child Abuse Hotline telephone system.

### **Disclosure of Reporter Identity**

**Citation: Ann. Code § 12-18-909**

The identity of the reporter shall not be disclosed unless a court determines that the reporter knowingly made a false report.

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## **Penalties for Failure to Report and False Reporting of Child Abuse and Neglect**

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### **Failure to Report**

**Ann. Code §§ 12-18-201; 12-18-202; 12-18-206**

A person commits the offense of failure to notify by a mandated reporter in the first degree if he or she:

- Is a mandated reporter under this chapter
- Has:

Reasonable cause to suspect that a child has been subjected to child maltreatment

Reasonable cause to suspect that a child has died as a result of child maltreatment

Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment

- Knowingly fails to notify the Child Abuse Hotline of the child maltreatment or suspected child maltreatment

Failure to notify by a mandated reporter in the first degree is a Class A misdemeanor.

A person commits the offense of failure to notify by a mandated reporter in the second degree if he or she:

- Is a mandated reporter under this chapter
- Has:

Reasonable cause to suspect that a child has been subjected to child maltreatment

Reasonable cause to suspect that a child has died as a result of child maltreatment

Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment

- Recklessly fails to notify the Child Abuse Hotline of the child maltreatment or suspected child maltreatment

Failure to notify by a mandated reporter in the second degree is a Class C misdemeanor.

A person required to make a report of child maltreatment or suspected child maltreatment to the Child Abuse Hotline who purposely fails to do so is civilly liable for damages proximately caused by that failure.

### **False Reporting**

#### **Ann. Code § 12-18-203**

A person commits the offense of making a false report under this chapter if he or she purposely makes a report containing a false allegation to the Child Abuse Hotline knowing the allegation to be false.

A first offense of making a false report under this chapter is a Class A misdemeanor. A subsequent offense of making a false report under this chapter is a Class D felony.

## **What does this have to do with providing training for educators in youth suicide awareness and prevention?**

Teachers, under definition of “First Responders” and from the 48 states that name professionals required to report Child Abuse and Neglect, are required to report Child Abuse and Neglect. States usually do an adequate job training educators on how to recognize / identify children who might be victims of physical abuse. However, when it comes to training on identifying and recognizing children who are neglected...especially under the “emotional neglect” definition states many times fall far short in providing this training even though it named with the same intensity that physical abuse is discussed. The “failure to act” when a young person is demonstrating “warning signs” (that four out of five do) that they may be struggling depression and with thoughts of suicide is a failure to “Report.” Ignorance to how-to recognize “warning signs” of suicidal ideation is no longer a valid defense with now over 18 states requiring such training and with suicide named as the 2<sup>nd</sup> leading cause of death for our youth ages 10-24.

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