

New York

Child Abuse Reporting

Who do I contact to report an incident in New York?

- (1) The Statewide Central Register of Child Abuse and Maltreatment known as the Child Abuse Hotline, at 800-342-3720;
- (2) any local child protective services;
- (3) call 311 in New York City; or;
- (4) if the child is in immediate danger, call 911 or your local police department.
- (5) Oral reports shall be followed by a report in writing within forty-eight hours after such oral report. Oral reports shall be made to the statewide central register of child abuse and maltreatment unless the appropriate local plan for the provision of child protective services provides that oral reports should be made to the local child protective service. In those localities in which oral reports are made initially to the local child protective service, the child protective service shall immediately make an oral or electronic report to the statewide central register. New York, Soc. Serv. § Law 415
- (6) "Whenever such (as listed in the mandated reporter section) person is required to report under this title in his or her capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, he or she shall make the report as required by this title and immediately notify the person in charge of such institution, school, facility or agency, or his or her designated agent. Such person in charge, or the designated agent of such person, shall be responsible for all subsequent administration necessitated by the report." **New York, Soc. Serv. Law § 413(1)(b).**

How much time do I have to report an incident?

New York requires reports be made immediately. **New York, Soc. Serv. Law §§ 413(1)(b) and 415.**

How is "child abuse" defined in New York?

"Abused child" means a child less than eighteen years of age whose parent or other person legally responsible for his care

- (i) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, or
- (ii) creates or allows to be created a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, or
- (iii) (A) commits, or allows to be committed an offense against such child defined in article 130¹ of the penal law; (B) allows, permits or encourages such child to engage

¹ Article 130 includes the following offenses "sexual offenses: lack of consent; sexual offenses: limitation, defenses; sexual offenses: corroboration; sexual misconduct; rape in the third, second degree, and first degrees; criminal sexual act in the third, second, and first degrees; forcible touching; persistent sexual abuse; sexual abuse in the third, second, and first degrees; aggravated sexual abuse in the fourth, third, second, and first degrees; course of sexual conduct against a child in the first and second degree; female genital mutilation; facilitating a sex offense with a controlled substance; sexually motivated felony; predatory sexual assault, predatory sexual assault against a child."

in any act described in sections 230.25², 230.30³, 230.32⁴ and 230.34⁵-a of the penal

² Promoting prostitution in the third degree – “A person is guilty of promoting prostitution in the third degree when he or she knowingly: 1. Advances or profits from prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more persons in prostitution, or a business that sells travel-related services knowing that such services include or are intended to facilitate travel for the purpose of patronizing a person for prostitution, including to a foreign jurisdiction and regardless of the legality of prostitution in said foreign jurisdiction; or 2. Advances or profits from prostitution of a person less than nineteen years old.”

³ Promoting prostitution in the second degree – “A person is guilty of promoting prostitution in the second degree when he or she knowingly: 1. Advances prostitution by compelling a person by force or intimidation to engage in prostitution, or profits from such coercive conduct by another; or 2. Advances or profits from prostitution of a person less than eighteen years old.”

⁴ Promoting prostitution in the first degree – “A person is guilty of promoting prostitution in the first degree when he or she: 1. Knowingly advances or profits from prostitution of a person less than thirteen years old; or 2. Being twenty-one years old or more, he or she knowingly advances or profits from prostitution of a person less than fifteen years old.

⁵ Sex trafficking – “A person is guilty of sex trafficking if he or she intentionally advances or profits from prostitution by: 1. Unlawfully providing to a person who is patronized, with intent to impair said person’s judgment: (a) a narcotic drug or narcotic preparation; (b) concentrated cannabis as defined in paragraph (a) of subdivision 4 of section 332 of the public health law; (c) methadone; or (d) gamma-hydroxybutyrate (GHB) or flunitrazepam, also known as Rohypnol; 2. Making material false statements, misstatements, or omissions to induce or maintain the person being patronized to engage in or continue to engage in prostitution activity; 3. Withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported government identification document of another person with intent to impair said person’s freedom of movement; provided, however, that this subdivision shall not apply to an attempt to correct a social security administration record or immigration agency record in accordance with any local, state, or federal agency requirement, where such attempt is not made for the purpose of any express or implied threat; 4. Requiring that prostitution be performed to retire, repay, or service a real or purported debt; 5. Using force or engaging in any scheme, plan or pattern to compel or induce the person being patronized to engage in or continue to engage in prostitution activity by means of instilling a fear in the person being patronized that, if the demand is not complied with, the actor or another will do one or more of the following: (a) cause physical injury, serious physical injury, or death to a person; or (b) cause damage to property, other than the property of the actor; or (c) engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this chapter; or (d) accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or (e) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or (f) testify or provide information or withhold testimony or information with respect to another’s legal claim or defense; or (g) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely, or, (h) perform any other act which would not in itself materially benefit the actor but which is calculated to harm the person who is patronized materially with respect to his or her health, safety, or immigration status.”

law; (C) commits any of the acts described in sections 255.25⁶, 255.26⁷, and 255.27⁸ of the penal law; (D) allows such child to engage in acts of conduct described in article 263⁹ of the penal law; or (E) permits or encourages such child to engage in any act or commits or allows to be committed against such child any offense that would render such child either a victim of sex trafficking or a victim of severe forms of trafficking in persons pursuant to 22 U.S.C. 7102¹⁰ as enacted by public law 106-386 or any successor federal statute; (F) provided, however, that (1) the corroboration requirement contained in the penal law and (2) the age requirement for the application of article 263¹¹ of such law shall not apply to proceedings under this article. **§ 1012 of the Family Court Act.**

How is child neglect defined in New York?

“Neglected child” means a child less than eighteen years of age

- (i) whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care (A) in supplying the child with adequate food, clothing, shelter or education in accordance with the provisions of part one of article 65 of the education law, or medical, dental, optometrical or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or in the case of an alleged failure of the respondent to provide education to the child, notwithstanding the efforts of the school district or local educational agency and child protective agency to ameliorate such alleged failure prior to the filing of the petition; or (B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive

⁶ Incest in the third degree – “A person is guilty of incest in the third degree when he or she marries or engages in sexual intercourse, oral sexual conduct or anal sexual conduct with a person whom he or she knows to be related to him or her whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew, or niece.”

⁷ Incest in the second degree – “A person is guilty of incest in the second degree when he or she commits the crime of rape in the second degree, as defined in section 130.30 of this part, or criminal sexual act in the second degree, as defined in section 130.45 of this part, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.”

⁸ Incest in the first degree – “A person is guilty of incest in the second degree when he or she commits the crime of rape in the first degree, as defined in subdivision three or four of section 130.35 of this part, or criminal sexual act in the first degree, as defined in subdivision three or four of section 130.50 of this part, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.”

⁹ Section 263 includes the following: Use of a child in a sexual performance; promoting an obscene sexual performance by a child; possessing an obscene sexual performance by a child; promoting a sexual performance by a child; possessing a sexual performance by a child; facilitating a sexual performance by a child with a controlled substance or alcohol.”

¹⁰ “The term ‘severe forms of trafficking in persons’ means - (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. The term ‘sex trafficking’ means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purposes of a commercial sex act.”

¹¹ Refer back to footnote 9 above.

corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; provided, however, that where respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as set forth in paragraph (i) of this subdivision or

- (ii) who has been abandoned with the definition and other criteria set forth in subdivision give of section 384b¹² of the Social Services Law, by his parents or other person legally responsible for his care. **§ 1012 of the Family Court Act.**

Who is a mandatory reporter in New York?

"The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child:

Any physician; registered physician assistant, surgeon; medical examiner; coroner; dentist, dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident; intern, psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; licensed behavior analyst; certified behavior analyst assistant; hospital personnel engaged in admission, examination, care or treatment of persons; a Christian Science practitioner; school official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate; full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate; social services worker; employee of a publicly funded emergency shelter for families with children; director of a children's overnight camp, summer day camp or traveling summer day camp, as such camps are defined in section 1392 of the public health law; a day care center worker; school-age child care worker; provider of family or group family day care; employee or volunteer in a residential care facility for children that is licensed, certified or operated by the officer of children and family services; or any other child care or

¹² 5(a) "For the purposes of this section, a child is 'abandoned' by his parent if such parent evinces an intent to forego his or her parental rights and obligations as manifested by his or her failure to visit the child and communicate with the child or agency, although able to do so and not prevented or discouraged from doing so by the agency. In the absence of evidence to the contrary, such ability to visit and communicate shall be presumed. (b) The subjective intent of the parent, whether expressed or otherwise, unsupported by evidence of the foregoing parental acts manifesting such intent, shall not preclude a determination that such parent has abandoned his or her child. In making such determination, the court shall not require a showing of diligent efforts, if any, by an authorized agency to encourage the parent to perform the acts specified in paragraph (a) of this subsection.

foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; all persons credentialed by the office of alcoholism and substance abuse services; employees, who are expected to have regular and substantial contact with children, of a health home or health home care management agency contracting with a health home as designated by the department of health and authorized under section 365-1 of this chapter or such employees who provide home and community based services under a demonstration program pursuant to section 1115 of the federal social security act who are expected to have regular and substantial contact with children; peace officer; police officer; district attorney or assistant district attorney, investigator employed in the office of a district attorney; or other law enforcement official.” **New York, Soc. Serv. Law § 413.**

Are Clergy mandatory reporters in New York?

No.

Is there an exception for penitential communication in New York?

An exception is not needed since clergy are not mandated reporters. However, there is a statute related to penitential communication. Confidential communication to clergy is privileged.

“Unless the person confessing or confiding waives the privilege, a clergyman, or other minister of any religion or duly accredited Christian Science practitioner, shall not be allowed [to] disclose a confession or confidence made to him in his professional character as spiritual advisor.” **NY CPLR § 4505.**

Where can I find New York law on child abuse?

https://ocfs.ny.gov/main/prevent_child_abuse.asp