



# Parents' Guide to New York State Child Abuse and Neglect Laws



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## ABOUT THIS BOOKLET

*As part of our on-going effort to ensure the safety and well being of New York City's children, the Administration for Children's Services (ACS) has produced the 2nd edition of the Parents' Guide to the New York State Child Abuse and Neglect Laws.*

*ACS acknowledges the many challenges that families and children encounter. This publication provides useful information about the New York State laws that protect children.*

*To learn more about detecting and reporting child abuse, or to find out more about preventive foster care or adoption programs, contact the ACS Neighborhood Based Services at 212-341-3060.*

## INTRODUCTION

*Sometimes I keep my eldest child home from school to help me with her brothers and sisters. What's the problem?*

*My parents beat me and I turned out all right. A little spanking here and there never hurt anyone.*

*I can't always provide adequate housing, clothing or food for my children. This is not a crime!*

*I get stressed out and need time alone; sometimes I take out my anger on the kids. I'm only human.*

*Because of my religious beliefs, I don't believe in seeking medical help for my children or myself. I have the right to choose my religious practice!*

The above are examples of comments made by parents or caregivers who naturally assume that they can raise their children whichever way they choose. In New York State, however, there are laws to protect children from the harm that parents or caregivers may intentionally or unintentionally inflict. Even though most parents love their kids and want to do what is best for them, a family's circumstances does not always allow this to happen. Each year, thousands of children throughout the country die as a result of abuse, and hundreds of thousands more suffer from various forms of maltreatment

at the hands of their parents or caregivers.

For this reason, the Federal Government passed the Child Abuse Prevention and Treatment Act (CAPTA), a law that generally defines what acts are considered maltreatment of a child.

Under CAPTA, each State is responsible for providing specific definitions of child abuse and neglect. These laws describe the circumstances and conditions that would require the intervention of child protection service agencies. In New York City, the local child protection agency is the Administration for Children's Services (ACS). Initially, ACS does not decide whom to investigate. When someone calls in a report of suspected child abuse or neglect, ACS begins its investigation.

ACS' mission is "to ensure the safety and well-being of all the children of New York." To this end, ACS uses all available means to make certain that children do not live in danger of abuse or

neglect, whether intentional or unintentional.

ACS acknowledges the many challenges that parents and families encounter. In an effort to assist parents or caregivers and prevent the risk of abuse or neglect, ACS contracts with many community-based agencies that provide support services for children and families. In addition, resources are available in most communities to assist families with food, clothing, shelter, counseling, and other services (see the resource list at the end of this guide.)

In a city where diverse populations and newly arrived immigrants reside, many cultural differences in child-rearing practices are certain to exist. It is important for parents and caregivers to know and understand that what may be permissible for, or expected from, children, parents and caregivers in certain countries can be unlawful under New York State law.

The purpose of this guide is to:

1. Illustrate the difference between what parents or caregivers perceive to be their rights and the reality of child welfare laws.
2. Help parents and caregivers understand the laws of the child welfare system, and
3. Provide a partial list of resources to help parents or caregivers access the assistance they may need.

### WHAT IS THE CHILD ABUSE AND NEGLECT LAW?

The Child Abuse Prevention and Treatment Act (CAPTA) defines child abuse and neglect as the act, or failure to act, by any parent or caretaker who is responsible for a child under the age of 18 that results in the maltreatment of a child.

### WHAT ARE THE MAIN TYPES OF CHILD MALTREATMENT?

The following are different classifications of child maltreatment.

### ■ Physical Abuse

**Physical abuse is inflicting or allowing someone to inflict physical injury other than by accidental means. This includes shaking, beating, biting, kicking, punching, and burning.**

#### EXAMPLES

- *I know that my child misbehaves because he is possessed by evil spirits. In my culture, it is common practice in these situations to tie the child to the bed and deny him food in an attempt to exorcise the evil spirit. Can I be reported?*

Yes. In the U.S., this practice is illegal and is considered a harmful way of dealing with a child's misbehavior. Although this may not be your intention, this practice would result in a report to the New York State Child Abuse and Maltreatment Hotline, also known as the State Central Register (SCR).

- *My husband becomes frustrated when our infant won't stop crying. He picks up the child and begins to shake her vigorously. Is this dangerous?*

This is extremely dangerous to the child and could result in "shaken baby syndrome." This is a serious injury, which could result in brain damage, blindness, retardation, spinal injury or death. Repeated tossing of a small child in the air, as a form of play, could also cause damage to the child. You could be reported for this as well.

- *I am a licensed caregiver and I baby-sit for six children in my home. Every now and then a child will fall and injure himself and I must bring him or her to the doctor. Am I at risk for being charged with physical abuse?*

In a case where a child injures himself accidentally and you have truthfully and accurately reported the circumstances of the incident, it would not be considered child abuse or neglect.

- *I discipline my children by hitting them with a belt. This is how I was raised and choose to raise my children. I was told by neighbors that I risk being reported if I continue. Is this true?*

Yes. Hitting your child may cause physical and psychological injury. This can result in a report to the SCR.

#### ■ Physical Neglect/ Inadequate Guardianship

**Parents are responsible for providing a minimum degree of care for their children. Physical neglect is the failure by the parent or caregiver to provide food, clothing or shelter. It also includes abandonment, inadequate supervision of a child by a parent or caregiver, and excessive corporal punishment.**

#### EXAMPLES

- *I don't always have the means to feed, clothe and bathe my children on a regular basis. The school has threatened to report me. Do they have a right to do so?*

Yes. Teachers are "mandated reporters", professionals required by law to report child abuse or neglect. As part of their job, teachers monitor school children's physical appearance and hygiene. If you have met with school officials and fail to cooperate

with a plan to improve care for your children, they are required to report the case to the authorities.

Note: If you are having financial or housing difficulties, refer to the resource directory at the end of this guide for assistance.

- *I left my daughter at an after-school program. I know the program ends at 5pm, but I couldn't get there to pick her up until 8pm. The school staff threatened to report me. Can they do that?*

Yes. If you cannot get to the school and if you do not contact the appropriate person to say why you have not picked up your child, school or daycare personnel may conclude that you have abandoned your child and contact the authorities.

- *Sometimes I leave my two-year-old son at home to go to the corner store. I tell my neighbor that I'll be back in ten minutes and ask her to listen for him. Is this okay?*

No. This is considered inadequate supervision. It is important to have someone physically present in your home during the time you are out in case an emergency

occurs. If something should happen to your child, you will be held responsible.

- *My 12-year-old child is home alone after school for a few hours until I get home from work. Is this acceptable under New York State law?*

According to the law, there is no set age at which you can leave a child alone. The parent is responsible for deciding whether or not the child is mature and responsible enough to understand the circumstances and take care of her or himself.

Note: While the law does not specify age, very young children cannot take care of themselves and should not be left alone.

## ■ Educational Neglect

**Educational neglect includes failure to enroll a school-age child in school, allowing unexplained absences from school, refusal of recommended remedial services without good reason, and failure to respond to attendance questions.**

## EXAMPLES

- *I enrolled my son in kindergarten but don't always send him to school. Since kindergarten isn't mandatory, does it really matter if he attends every day?*

While it is true that kindergarten is not mandatory, if you enroll your child in a school, the child must attend on a regular basis. If the child is consistently absent without a documented excuse, the school is required to investigate the reason for these absences. If, for whatever reason, you have decided not to send your child to the school he is enrolled in, you must officially withdraw him from the school.

- *My child is enrolled in a school but I have decided for safety and educational reasons that I would prefer to educate my child at home (called "home-schooling"). Can I be charged with educational neglect for not sending my child to school?*

If you remove your child from a school you must officially withdraw the child's name from the school and district office rosters. You must also

make sure that you can provide all the proper home school registration materials and curriculum documentation upon request.

- *As a new immigrant, I sometimes need to keep my fluent English-speaking child home from school to help me translate at my appointments. Could this be considered educational neglect?*

Yes. If the child is chronically absent from school, the school is required to investigate. Chronic absence can include 10 consecutive days or 20 intermittent days in a marking period.

- *My child is 17 years old and refuses to attend school. It is beyond my control to ensure his attendance. Can I be charged with educational neglect?*

No. According to the law, children age 17 and over have a right to determine whether or not they attend school. A parent or caregiver is no longer responsible for their child's school attendance.

Note: Parents should seek help in handling a situation where



a 17-year-old is refusing to go to school (refer to the resource directory at the end of this guide.)

### ■ Emotional Abuse/Verbal Abuse

*You rotten, no good little punk!  
You never do anything right!  
I wish you had never been born. You are a burden!*

**A child who is consistently exposed to negative and abusive statements, such as the examples given above, is likely to suffer from emotional abuse that can impair his or her psychological development. Emotional abuse is commonly defined as the non-physical maltreatment of a child (under 18 years old) that can seriously interfere with his or her positive emotional development. Patterns of abusive behavior can include constant rejection, terrorizing, exposing a child to corruption, violence or criminal behavior, irrational behavior and verbal abuse (excessive yelling, belittling and teasing).**

#### EXAMPLES

- *My son was having problems in school. His teachers called*

*a conference with both of us. During the conference, I told my son that he was stupid and incompetent. I don't think my remarks were emotionally abusive. Am I wrong?*

Belittling or insulting a child can impair his or her emotional well-being and leave the child feeling helpless and worthless. This situation could therefore be considered verbal abuse.

### ■ Emotional Neglect

**Emotional neglect is the failure of a parent or caregiver to supply a child with the love and support necessary for a healthy emotional development. Examples include failure to provide warmth, attention, supervision, affection, praise or encouragement to a child.**

#### EXAMPLES

- *I am a single parent, very sick and responsible for three children. I am dependent on my eldest child for assistance with his younger siblings and with tending to some of my medical needs. In my culture the eldest child is always expected to help*

*out in the home. Is this not acceptable in New York?*

It may or may not be. When a parent depends too much on a child, or expects him or her to act as an adult, the child may experience stress due to feelings of guilt, excess responsibility and isolation (If you are a parent and need help, see the resource directory at the end of this guide.)

- *My child has witnessed my husband yell and curse at me and, on several occasions, actually hit me. Is this considered harmful to my child's well-being?*

Children who witness any form of violence including family violence may experience psychological, emotional, or behavioral problems as a result. Children often do not understand what is happening and may feel that they are the cause of the violence, or they may feel guilty for not being able to prevent the violence.

- *My father didn't hug and kiss me very much as a child. I am the same way with my children. However, I notice that their friends' parents*

*display a lot of emotion toward their kids. Will I be reported for emotionally neglecting my children?*

No. However, children need a certain amount of affection, attention, praise, and encouragement, to develop in healthy ways. If your children begin to withdraw emotionally, or complain of a lack of attention or affection they are receiving from you, it may be time for you to look more closely at how you nurture your children.

#### ■ Medical Neglect

**A parent or caregiver is required to supply adequate medical, dental, optical and surgical care for a child under 18 years old. This medical care includes seeking adequate treatment for conditions that impair, or threaten to impair, the child's mental, emotional or physical condition. Following prescribed treatment for medical, psychiatric, and psychological care. Obtaining preventive care such as well-baby care checkups, and immunizations for polio, mumps, and measles.**

## EXAMPLES

- *My son, who is seriously ill, was prescribed multiple medications, which he does not like, and I will not force him to take. Is this considered medical neglect?*

It may or may not be. Not following the prescribed treatment may place your child at risk of medical complications (or possibly death) and may be considered medical neglect.

- *While baking a cake, my daughter burned her arm with the door of the oven. I applied a home remedy from my native country. She developed an infection after 10 days. Was my treatment considered unlawful?*

The law requires that parents seek medical attention once a child has been injured. While some home remedies may be useful for mild ailments, it is best to seek medical attention for any serious injuries.

- *My three-year-old son fell and injured himself. I took him to the emergency room and made up a story about how the injury occurred fearing the truth may not be believed.*

*Did I do the wrong thing by not telling the truth?*

It is best to be honest about how the injury occurred. Conflicting stories may create reasons to assume that you are hiding something. This may lead to the emergency room personnel requesting an investigation by ACS.

- *Many of my friends in the neighborhood have advised me not to take my son to the hospital when he is hurt because ACS will take him away. Is this true?*

ACS will not take your child away just because you seek care for his or her injuries. Regulations mandate that all surrounding circumstances be examined and evaluated before ACS removes a child from his or her home.

- *The school nurse sent a letter with my daughter claiming she needs glasses. No one in my family wears glasses, and I won't make my daughter wear them. Can I be charged with medical neglect?*

Yes. Failure to follow up with the school nurse's recommendation can obstruct your child's development,

which can be considered neglect.

- *I have many appointments at Family Court, the welfare office, New York City Housing, and my children's school. I do not have additional time to take my child to doctor appointments, especially when he is not ill. Does this constitute medical neglect?*

Multiple canceled appointments with the child's pediatrician can be considered medical neglect. Failure to provide well-child care can often lead to more serious conditions, which, if not addressed, may be deemed the result of medical neglect. Medical personnel are mandated reporters and must report medical neglect if they suspect it.

- *I took my son to the ear doctor who told me that he needed an operation to improve his hearing. He asked me to schedule the operation right away. I did not schedule it with him, but instead took my son to another doctor. Is this medical neglect?*

No. You have the right to have another doctor examine your son and help you determine

if an operation is the best medical option.

## ■ Sexual Abuse

**Sexual abuse includes incest, rape, obscene sexual performance, fondling a child's genitals, intercourse, sodomy, and any other contact such as exposing a child to sexual activity or exhibitionism, or commercial exploitation such as prostitution of a minor or production of pornographic materials.**

**For all sexual acts, a person is deemed legally incapable of consent if he or she is under 17 years old, mentally incapacitated, or physically helpless.**

## EXAMPLES

- *I heard about a father who undresses his 14-year-old daughter every night and physically checks to see if she is still a virgin. He claims this is a standard practice in his homeland. Should this be brought to someone's attention?*

Yes. This practice may be common in other countries, but in the U.S. it is considered traumatic to the child and

may be construed as an act of incest. This practice would warrant an ACS investigation.

- *In my country, I am expected to have sex with my 11-year-old daughter in order to be her first sexual experience. When I explained this to the doctor, he said he would report me. Why?*

While it may be expected and permissible in your country, in the U.S. sexual activity with a member of your family is considered an act of incest and is against the law.

- *We have a two-bedroom apartment. My 10-year-old son shares one bedroom with his 23-year-old sister who sometimes brings home her boyfriend and engages in sexual activity in front of my son. My son claims not to mind. Is this inappropriate?*

Yes. Exposing your son to sexual activity violates the law.

- *My neighbor showed me pictures she took of her nude baby in the bath. Isn't this a form of sexual abuse?*

Probably not. In this instance your neighbor's intentions do not appear to be malicious

nor the pictures to be for sale. Therefore, your neighbor probably has not committed sexual abuse.

## ■ Drug and Alcohol Abuse

**In New York City, approximately 70% of the cases investigated by ACS involve some form of substance abuse. Evidence has shown that children who grow up in homes involving the abuse of alcohol and/or drugs are more likely to be maltreated as well as physically and emotionally neglected. Usually, the parent or caregiver is more focused on using and obtaining the substance than considering the emotional and physical needs of the child; money that should go for food, clothing or shelter is spent on alcohol and/or drugs.**

### EXAMPLES

- *My neighbor goes out drinking regularly. She comes home drunk, can't make dinner or tend to the children and she passes out. Can she be reported for child abuse?*

Yes. She can be reported. She has the responsibility to care for her children and if she

cannot do so because she is drunk, a report can be called in to the SCR.

- *I use drugs and am now seven months pregnant. If my baby is born with a positive toxicology for illegal drugs, will a report be called in to the child abuse hotline?*

Yes. If the baby is born with a positive toxicology for illegal drugs, then this would have to be investigated. The investigation would focus on, among other things, whether or not you are actively using illegal drugs, whether or not you are in a rehabilitation program, whether you've had other children born with a positive toxicology, and whether you have adequate provisions (such as food, clothing, or shelter) at home for the child.

### **A note on mandated reporters**

New York State laws describe the circumstances and conditions, like those discussed in this brochure, which constitute child abuse or neglect. In addition, the laws require certain individuals to report known or suspected cases of abuse or neglect.

As a mandated reporter, you must make a report whenever you have reasonable cause to suspect that a child appearing before you in your professional or official capacity is being abused or neglected.

This mandatory reporting statute is for the purpose of identifying suspected abused and neglected children as soon as possible in order to protect them from further harm and, where appropriate, offer services to assist their families.

### **Mandated reporters include:**

Day Care Workers, Dental Staff, District Attorneys Office Staff, Foster Care Workers, Medical Examiners, Mental Health Professionals, Physicians, Psychologists, Residents, Interns, Nurses, School Officials, Substance Abuse Counselors, Social Service Staff, Physician Assistants, Police Officers, Other Law Enforcement Officials, and Hospital Personnel.

### **■ Resource Information**

**ABUSE PREVENTION AND INTERVENTION RESOURCES**

**NY State Central Register Child Abuse & Maltreatment Hotline**

Accepts reports of child abuse and neglect.

24 hours/7 days a week

(800) 342-3720

Outside NY State

(518) 474-8740

**New York Foundling Parent Helpline**

Provides emergency childcare, crisis counseling and telephone referrals.

24 hours/7 days a week

(212) 472-8555

**Supportive Children's Advocacy Network (SCAN)-NY**

Parent-Aides Assoc. Inc.

After School Program

Mon-Fri, 9a.m.-5p.m.

(212) 683-2522

**Prevent Child Abuse NY – Parent Helpline**

Provides information and referrals services.

24 hours/7 days a week

(800) 342-7472

**Children Advocacy Center of Manhattan**

Assessment and treatment services for victims of child abuse.

Mon-Fri, 9a.m.-5p.m.

(212) 517-3012

**Single Parent Resource Center**

Programs to assist single parents and activities for children and teens.

Mon-Fri, 9:30a.m.-5:30p.m.

(212) 951-7030

**Brooklyn Child Advocacy Center**

Information and referral.

Mon-Fri, 10a.m.-8p.m.

Sat-Sun, 10a.m.-6p.m.

(718) 260-6080

**Family Dynamics**

Counseling, parenting classes, afterschool program, respite nursery.

Mon-Fri, 9a.m.-5p.m.

(212) 255-8484

**National Respite Locator Service**

Referrals to respite or crisis programs.

Mon-Fri, 9a.m.-5p.m.

(800) 773-5433

**Resources for Children with Special Needs, Inc.**

Information, referral, advocacy, training, education and outreach.

Mon-Fri, 9a.m.-5:30p.m.

(212) 677-4650

**Administration for Children's Services**

Office of Advocacy

Parents' and Children's Rights Unit

Mon-Fri, 9a.m.-5p.m.

(212) 676-9421

**CHILDCARE**

**ACS Agency for Child Development**

Information on Day Care & Head Start

Mon-Fri, 9a.m.-5p.m.  
(718) FOR KIDS (367-5437)

**DOMESTIC VIOLENCE**

**HOPE - Domestic Violence Hotline**

Information, referrals, crisis intervention, counseling, shelters, and advocacy.  
24 hours/7 days a week  
(800) 621-4673

**FOSTER AND ADOPTIVE PARENTING**

**ACS Parent Recruitment Hotline**

Mon-Fri, 9a.m.-5p.m.  
(212) 676-WISH (9474)

**HEALTH-RELATED RESOURCES**

**Medicaid Information**

(Human Resources Administration Info line)  
24 hours/7 days a week  
(718) 291-1900

**Life Net**

Information and referrals for mental health services.  
24 hours/7 days a week  
(800) LIFE-NET (543-3638)

**NYC Immunization Action Plan**

Referrals to immunization clinics.  
24 hours/7 days a week  
(800) 325-CHILD (2445)

**Child Health Plus**

Health care referrals for children under 19.

24 hours/7 days a week.  
(800) 698-4543

**HOUSING ASSISTANCE**

**Eviction Prevention Housing Court Units**

Mon-Fri, 9a.m.-5p.m.  
(718) 237-7024

**Homeless/Emergency Shelter**

24 hours/7 days a week  
(800) 994-6494

**NYC Housing Authority**

Mon-Fri, 9a.m.-5p.m.  
(212) 828-7100

**IMMIGRATION SERVICES**

**Immigration and Naturalization Service**

Information on immigrant rights, benefits, and citizenship.  
24 hours/7 days a week  
(800) 375-5283

**NY Association for New Americans**

Legal, social vocational and other services for immigrants.  
Mon-Fri, 9a.m.-5p.m.  
(212) 425-2900

**AIDS & HIV-RELATED SERVICES**

**AIDS/HIV Hotline**

Information, referrals, testing and counselling.  
24 hours/7 days a week  
(212) 447-8200

**DRUG OR ALCOHOL ABUSE SERVICES**



**Alcohol Abuse - Alcoholics**

Anonymous Information and referrals.

Mon-Fri, 9a.m.-10p.m.  
(212) 647-1680

**Drug Abuse Information Line**

(800) 522-5353

**EDUCATIONAL & EMPLOYMENT TRAINING**

**Training & Employment**

**Hotline** (HRA Info line)  
24 hours/7 days a week  
(718) 291-1900

**Business Link**

Job referrals for Public Assistance recipients.  
Mon-Fri, 9a.m.-5p.m.  
(212) 643-2881

**FINANCIAL ASSISTANCE**

**ACS Office of Child Support Enforcement**

Mon-Fri, 9a.m.-5p.m.  
(212) 226-7125

**Public Assistance Info-line**

(HRA Info line) 24 hours/  
7 days a week  
(718) 291-1900

**Social Security & SSI**

Information on SS benefits and medicare. Applications for claims for disability, retirement, survivors, etc.  
Mon-Fri, 7a.m.-7p.m.  
(800) 772-1213

**FOOD ASSISTANCE**

**Emergency Assistance Unit**

**Food after hours**

24 hours/7 days a week  
(718) 402-6277

**Food and Hunger Hotline**

Referrals to local soup kitchens and food pantries  
24 hours/7 days a week  
(212) 533-6100

**Food Stamps/Surplus Food Distribution**

(HRA Info-line)  
24 hours/7 days a week  
(718) 291-1900

**Women, Infants, and Children**

(WIC Program)  
Supplemental food program (NYS Health-Line)  
24 hours/7 days a week  
(800) 522-5006

**YOUTH SERVICES**

**New York City Youthline**

Crisis intervention, information and referral  
24 hours/7 days a week  
(800) 246-4646

**Youth Crisis Hotline**

Referral hotline for youth ages 13-17  
24 hours/7 days a week  
(800) 448-4663

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