


**DEPARTMENT OF HUMAN RESOURCES  
SOCIAL SERVICES ADMINISTRATION  
311 WEST SARATOGA STREET  
BALTIMORE, MARYLAND 21201**

**DATE:** September 30, 2016

**POLICY#:** SSA-CW #17-14

**TO:** Directors, Local Departments of Social Services  
Assistant Directors, Local Departments of Social Services

**FROM:** Rebecca Jones Gaston, MSW   
Executive Director  
Social Services Administration

**RE:** Failure to Report Child Abuse and Neglect

**PROGRAMS AFFECTED:** Child Protective Services, In Home Family Services, Out-of-Home Placement Services and Adult Services

**ORIGINATING OFFICE:** In-Home Services Unit

**ACTION REQUIRED OF:** All Local Departments of Social Services

**ACTION REQUIRED:** Implementation of Policy

**ACTION DUE DATE:** October 1, 2016

**CONTACT PERSONS:** Stephanie Cooke, Analyst  
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**PURPOSE:**

The purpose of this policy is to provide guidance to Local Departments of Social Services (LDSS) when the LDSS becomes aware that a mandated reporter has knowingly failed to report child abuse or neglect.

**BACKGROUND:**

During the 2016 legislative session, Senate Bill 310/House Bill 245 “Child Abuse and Neglect – Failure to Report” passed. This bill requires an agency that is participating in a child abuse or neglect investigation to file a complaint with a *mandated* reporter’s board, agency, institution, or facility when the agency has substantial grounds to believe that a person has knowingly failed to report child abuse or neglect. This bill is codified in section 5-705.3 of the Family Law Article, Maryland Code.

**ACTION:**

Under Family Law 5-704, health practitioners, police officers, educators, and human service workers in Maryland who have “reason to believe that a child has been subjected to abuse or neglect” are *required* to make a report to local law enforcement or to an LDSS. When an LDSS has substantial evidence that a mandated reporter knew about child abuse or neglect but failed to report, this bill requires the LDSS to take further action. This law does not apply to Alternative Responses.

A mandated reporter may be found to have *knowingly* failed to report if the mandated reporter:

1. Had reason to believe child abuse or neglect occurred and did not make a report; and
2. Had no basis to conclude that another individual had made the mandated report.

An LDSS must have “substantial evidence” of a knowing failure to report child abuse or neglect, and should consider that:

1. A belief that child abuse or neglect has occurred is subjective; and
2. An LDSS should not consider a mandated reporter to have knowingly failed to make a report if the mandated reporter failed to report a “suspicion” or “inkling; and
3. An unconfirmed suspicion that a mandated reporter knew about the child abuse or neglect and did not report would not constitute “substantial evidence.”

If, in the course of an investigation, an LDSS determines that a mandated reporter knowingly failed to report child abuse or neglect, the LDSS shall:

1. If the person is employed as a *health practitioner*, notify the appropriate licensing board in accordance with the provisions of the Health Occupations Article;
2. If the person is employed as a *police officer*, notify the law enforcement agency with which the person is employed; or
3. If the person is employed as an *educator or human service worker*, notify the county board of education or the appropriate agency, institution, or licensed facility with which the person is employed.

If an LDSS finds that a mandated reporter could fall within more than one category, reporting should be made based on whether the person was acting as a health practitioner, police officer, or educator or human services worker. Multiple reports are not required.

Staff can go to <http://dhmh.maryland.gov/Pages/boards.ASPX> to access contact information for the appropriate licensing board.

#### **PROCESS:**

When LDSS staff believes that a mandated reporter has knowingly failed to report child abuse or neglect:

1. The staff member's supervisor should review the evidence supporting the knowing failure to report;
2. If approved, the LDSS should send written notification to the appropriate board, agency, institution, or facility outlining the circumstances and the substantial evidence supporting the knowing failure to report;
3. The written notification may not identify anyone by name except the mandated reporter whom the LDSS believes knowingly failed to report but may otherwise describe the circumstances, dates, and locations relevant to the report; and
4. The written notification SHALL NOT be placed in any investigation or case file. The LDSS should maintain a separate record documenting the complaint.

Attached is a sample letter to send to the appropriate board, agency, institution, or facility. This letter can also be found on Knowledge Base in Word format.

## SAMPLE LETTER

DATE

NAME  
ADDRESS  
ADDRESS

RE: [NAME OF MANDATED REPORTER]

Dear [REDACTED]:

Pursuant to Family Law Article § 5-705.3, Annotated Code of Maryland, Child Protective Services staff at local departments of social services are required to report to appropriate licensing authorities or employers of school staff or law enforcement when they have substantial grounds to believe that an individual identified as a “mandated reporter” under Family Law Article § 5-704 “knowingly failed to report suspected child abuse or neglect.”

On [DATE] Child Protective Services in [COUNTY] received a report of child [physical abuse/sexual abuse/neglect/mental injury (choose the appropriate category)] concerning a [age]-year-old child and initiated an investigation. During the investigation, the local department received credible information that [NAME OF MANDATED REPORTER], who is a [POSITION (health practitioner, educator, law enforcement officer, human service worker)] at [PLACE OF EMPLOYMENT/VOLUNTEER WORK] had reason to believe child abuse or neglect had occurred but failed to make a report to a local department of social services or local law enforcement as required by statute.

Unfortunately, confidentiality laws prevent me from sharing details about the investigation but I hope that I have provided you with sufficient information to follow-up on this report should you choose to do so. We appreciate any efforts you make to ensure that mandated reporters are complying with the law, however, you are not required to report any information back to our agency.

Thank you.

Sincerely,

[NAME]  
Director