



Child Abuse/Child Safety/Discipline

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Background

CHILD ABUSE occurs when a parent or caretaker physically, emotionally, or sexually mistreats or neglects a child resulting in the physical, emotional, or sexual harm or exploitation, or imminent risk of harm or exploitation, or in extreme cases the death, of a child. Laws regarding child abuse seek to protect children while at the same time allowing parents the right to raise and discipline their children as they see fit. Controversies over child abuse laws arise when parents or guardians feel that the government is interfering in their private family lives.

History

Child abuse has a lengthy history. Children have always been subject to abuse by their parents or other adults, and for many centuries laws failed to protect them. Children under English [COMMON LAW](#) were considered the property of their fathers until the late 1800s; American colonists in the seventeenth and eighteenth centuries carried this tradition to the early years of the United States.

In the early 1870s, child abuse captured the nation's attention with news that an eight-year-old orphan named Mary Ellen Wilson was suffering daily whippings and beatings at her foster home. With no organization in existence to protect abused children, the orphan's plight fell to attorneys for the American Society for the Prevention of Cruelty to Animals (ASPCA). These attorneys argued that laws protecting animals from abuse should not be greater than laws protecting children. Mary Ellen Wilson's case went before a judge, who convicted the foster mother of [ASSAULT AND BATTERY](#) and gave her a one year sentence. More significantly, the orphan's case generated enough outrage over child abuse that in 1874, citizens formed the New York Society for the Prevention of Cruelty to Children.

Child abuse captured the country's attention again in 1962, when an article appearing in the Journal of the American Medical Association described symptoms of child abuse and deemed child abuse to be medically diagnosable. Within ten years, every state had statutes known as mandatory reporting laws. Mandatory reporting laws require certain professionals—doctors and teachers, for example—to report to police suspected child abuse situations. A 1974 federal law further bolstered efforts to eliminate child abuse by funding programs to help individuals identify and report child abuse and to provide shelter and other protective services to victims.

Defining Child Abuse

Child abuse may involve physical abuse that causes injury. The most obvious types of physical child abuse include children who are beaten, burned, or shaken. Child abuse may involve [SEXUAL ABUSE](#), although sexual abuse need not result in physical injury to the child for it to be illegal. Sexual abuse may include inappropriate touching, fondling, or even sexual intercourse. Finally, child abuse may involve neglect that places a child at risk, such as when a child who is left alone without adult supervision, or a child who is left enclosed and unattended in a car.

Preventing Child Abuse

In addition to state laws criminalizing child abuse, states have agencies, known as child protective services, that investigate suspected child abuse cases involving the child's parent or [GUARDIAN](#). When a suspected case of child abuse involves an adult other than the child's parent or guardian, law enforcement agencies such as police departments typically conduct the investigation. An investigation may include a law officer or case worker visiting and interviewing the child. Parents, guardians, and other possible witnesses such as doctors or teachers also may be questioned during an investigation.

Once an investigation is completed, the child protective service or law enforcement agency determines whether the [EVIDENCE](#) substantiates child abuse. If it does, then the agency will intervene. There is a spectrum of intervention modalities. In less severe cases of child abuse— for example, when a parent unwittingly leaves a child in a car while making a quick stop in a grocery store— intervention may be nothing more than requiring the parent to meet with a social worker to learn about the dangers of leaving a child unattended. If it appears to the investigating agency that an abused child is in imminent danger, the agency may take the child from the parents and place the child temporarily in a foster home until the parents demonstrate their willingness to stop the abuse. In extreme cases of child abuse, the investigating agency may seek assistance from a court to terminate the parental rights. When this happens, the child may be placed for permanent [ADOPTION](#).

Child protective services, in addition to investigating allegations of child abuse, maintain records regarding child abuse. These records are kept in a central registry, and in some states, parties such as [CHILD CARE](#) providers or adoption agencies have access to the central registry. The goal of the central registry is to help child protective services, and sometimes other parties, know whether an individual has a history of abusing children. Although this information can be invaluable in preventing future child abuse, central registries may contain false or unsubstantiated accounts of child abuse, implicating innocent individuals. For this reason, some groups oppose central registries and argue that child protective services have too much power. One such group, Victims of Child Abuse Laws (VOCAL), seeks a reform in child abuse laws to better protect the rights of parents, who may be falsely [ACCUSED](#) of child abuse or neglect.

VOCAL, and groups like it, maintain that it is too easy for false accusations about child abuse to lead to the removal of children from their parents and their homes. False reports of child abuse can come from children seeking attention or attempting to avoid reasonable forms of discipline. False reports of child abuse also may result from animosity between parents, such as when parents are in the midst of [DIVORCE](#) and [CUSTODY](#) battles over their children. The evidence of child abuse is sometimes nothing more than a young child's [TESTIMONY](#). Proponents of child abuse law reform maintain that police and other officials can easily manipulate a young child to support allegations of child abuse. The ramifications of a false report of child abuse can be serious: officials may remove children from their homes and place them in foster care or permanent new adoptive homes, emotionally scarring both children and parents.

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Another difficult issue in the arena of child abuse concerns discipline. There are many different views regarding what constitutes discipline and where the line should be drawn between reasonable parental discipline and child abuse. For example, some parents feel that spanking or hitting a child is abusive behavior; other parents rely on spanking, or the threat of a spanking, to teach children to obey and behave. Using physical measures to discipline children is known as corporal punishment. In trying to prevent child abuse, legal and governmental agencies attempt to balance the parents' right to raise their children in the manner they feel is appropriate with the child's right to be safe and unharmed.

Some forms of child abuse are caused not by a parent's willful abuse, but rather, by a parent's [NEGLIGENCE](#). One common, and oftentimes tragic, form of neglect occurs when a parent accidentally leaves a sleeping baby in a car on a warm day. In the sun, the interior of a car can heat within minutes to more than 100 degrees, temperatures that a baby cannot survive. Whether to charge parents in these situations with child abuse is a divisive issue. Some people maintain that careless parents should be prosecuted; other people believe that a parent who loses a child due to the parent's mistake suffers enough without being prosecuted.

State Laws

ALABAMA: STATUTE defines child abuse as harm or threatened harm of physical abuse, neglect, sexual abuse, sexual exploitation, or emotional/mental injury against a child under the age of 18. Statute contains an exemption for religious reasons for a parent's failure to obtain medical help for the child.

ALASKA: Statute defines child abuse as harm or threatened harm of physical abuse, neglect, sexual abuse, sexual exploitation, or emotional/mental injury of a child under the age of 18. Statute contains an exemption for religious reasons for a parent's failure to obtain medical help for the child.

ARIZONA: Statute defines child abuse as inflicting or allowing physical abuse, neglect, sexual abuse, sexual exploitation, emotional/mental injury, or [ABANDONMENT](#) of a child under the age of 18. Statute contains an exemption for Christian Scientists or unavailability of reasonable resources for a parent's failure to obtain medical help for the child.

ARKANSAS: Statute defines child abuse as intentionally, knowingly, or negligently without cause inflicting physical abuse, neglect, sexual abuse, sexual exploitation, abandonment or emotional/mental injury of a child under the age of 18. Statute contains exemptions for poverty or corporal punishment.

CALIFORNIA: Statute defines child abuse as inflicting by non-accidental means physical abuse, neglect, sexual abuse, or sexual exploitation of a child under the age of 18. Statute contains exemptions for religion, reasonable force, and informed medical decision.

COLORADO: Statute prohibits threats to a child's health and welfare due to physical abuse, neglect, sexual abuse, sexual exploitation, emotional/mental injury, or abandonment. Statute contains exemptions for corporal punishment, reasonable force, religious practices, and cultural practices.

CONNECTICUT: Statute prohibits injuries inflicted by non-accidental means involving physical abuse, neglect, sexual abuse, sexual exploitation, emotional/mental injury, or abandonment. Statute contains exemption for Christian Scientists.

DELAWARE: Statute prohibits injuries inflicted by non-accidental means involving physical abuse, neglect, sexual abuse, sexual exploitation, emotional/mental injury, or abandonment. Statute contains exemption for religion.

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DISTRICT OF COLUMBIA: Statute prohibits persons from inflicting and requires people to take reasonable care not to inflict injuries involving physical abuse, neglect, sexual abuse, sexual exploitation, or emotional/mental injury. Statute contains exemption for poverty and religion.

FLORIDA: Statute prohibits willful or threatened act that harms or is likely to cause harm of physical abuse, neglect, sexual abuse, sexual exploitation, abandonment, or emotional/mental injury. Statute contains exemptions for religion, poverty, or corporal punishment.

GEORGIA: Statute prohibits injuries inflicted by non-accidental means involving physical abuse, neglect, sexual abuse, or sexual exploitation. Statute contains exemption for religion and corporal punishment.

HAWAII: Statute prohibits acts or omissions resulting in the child being harmed or subject to any reasonably foreseeable, substantial risk of being harmed with physical abuse, neglect, sexual abuse, sexual exploitation, or emotional/mental injury. Statute contains no exemptions.

IDAHO: Statute prohibits conduct or omission resulting in physical abuse, neglect, sexual abuse, sexual exploitation, abandonment, or emotional/mental injury. Statute contains exemption for religion.

ILLINOIS: Statute prohibits persons from inflicting, causing to be inflicted, or allowing to be inflicted, or creating a substantial risk, or committing or allowing to be committed, physical abuse, neglect, sexual abuse, sexual exploitation, or emotional/mental injury. Statute contains exemptions for religion, school attendance, and plan of care.

INDIANA: Statute prohibits act or omission resulting in physical abuse, neglect, sexual abuse, sexual exploitation, abandonment, or emotional/mental injury. Statute contains exemptions for religion, prescription drugs, or corporal punishment.

KENTUCKY: Statute prohibits harm or threat of harm, or infliction or allowance of infliction of physical abuse, neglect, sexual abuse, sexual exploitation, abandonment, or emotional/mental injury. Statute contains exemptions for religion.

MARYLAND: Statute prohibits harm or substantial risk of harm resulting in physical abuse, neglect, sexual abuse, sexual exploitation, or emotional/mental injury. Statute contains no exemptions.

MICHIGAN: Statute prohibits harm or threatened harm of physical abuse, neglect, sexual abuse, sexual exploitation, or emotional/mental injury. Statute contains exemptions for religion.

MISSISSIPPI: Statute prohibits persons from causing or allowing to be caused physical abuse, neglect, sexual abuse, sexual exploitation, or emotional/mental injury. Statute contains exemption for religion and corporal punishment.

NEBRASKA: Statute prohibits knowingly, intentionally, or negligently causing or permitting physical abuse, neglect, sexual abuse, sexual exploitation, or emotional/mental injury. Statute contains no exemptions.

NEW MEXICO: Statute prohibits knowingly, intentionally, or negligently causing or permitting physical abuse, neglect, sexual abuse, sexual exploitation, abandonment, or emotional/mental injury. Statute contains exemption for religion.

NORTH DAKOTA: Statute prohibits serious harm caused by non-accidental means resulting in physical abuse, neglect, sexual abuse, sexual exploitation, abandonment, or emotional/mental injury. Statute contains no exemptions.

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OKLAHOMA: Statute prohibits harm or threat of harm resulting in physical abuse, neglect, sexual abuse, sexual exploitation, abandonment, or emotional/mental injury. Statute contains exemptions for religion or corporal punishment.

PENNSYLVANIA: Statute prohibits recent act or failure to act resulting in physical abuse, neglect, sexual abuse, sexual exploitation, or emotional/mental injury. Statute contains exemptions for religion or poverty.

SOUTH DAKOTA: Statute prohibits threat with substantial harm resulting in physical abuse, neglect, sexual abuse, sexual exploitation, abandonment, or emotional/mental injury. Statute contains no exemptions.

TENNESSEE: Statute prohibits persons from committing or allowing to be committed physical abuse, neglect, sexual abuse, sexual exploitation, or emotional/mental injury. Statute contains no exemptions.

UTAH: Statute prohibits harm or threat of harm resulting in physical abuse, neglect, sexual abuse, sexual exploitation, or emotional/mental injury. Statute contains no exemptions.

WASHINGTON: Statute prohibits harm of health, welfare, or safety resulting from physical abuse, neglect, sexual abuse, or sexual exploitation. Statute contains exemptions for Christian Scientists, corporal punishment, or physical [DISABILITY](#).

Additional Resources

National Clearinghouse on Child Abuse and Neglect Information. Available at www.calib.com

West's Encyclopedia of American Law. West Group, 1998.

Organizations

American Professional Society on the Abuse of Children

940 NE 13th Street
Oklahoma City, OK 73104 USA
Phone: (405) 271-8202
URL: www.apsac.org

Prevent Child Abuse America

200 South Michigan Avenue, 17th Floor
Chicago, IL 60604-2404 USA
Phone: (312) 663-3520
URL: www.preventchildabuse.org

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