START\_STATUTE13-3620.  Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions

A.  Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36‑2281 shall immediately report or cause reports to be made of this information to a peace officer, to the department of child safety or to a tribal law enforcement or social services agency for any Indian minor who resides on an Indian reservation, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.  A member of the clergy, a Christian Science practitioner or a priest who has received a confidential communication or a confession in that person's role as a member of the clergy, as a Christian Science practitioner or as a priest in the course of the discipline enjoined by the church to which the member of the clergy, the Christian Science practitioner or the priest belongs may withhold reporting of the communication or confession if the member of the clergy, the Christian Science practitioner or the priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, the Christian Science practitioner or the priest may otherwise make of the minor.  For the purposes of this subsection, "person" means:

1.  Any physician, physician's assistant, optometrist, dentist, osteopathic physician, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.

2.  Any peace officer, child welfare investigator, child safety worker, member of the clergy, priest or Christian Science practitioner.

3.  The parent, stepparent or guardian of the minor.

4.  School personnel, domestic violence victim advocates or sexual assault victim advocates who develop the reasonable belief in the course of their employment.

5.  Any other person who has responsibility for the care or treatment of the minor.

6.  Any person who is employed as the immediate or next higher level supervisor to or administrator of a person who is listed in paragraph 1, 2, 4 or 5 of this subsection and who develops the reasonable belief in the course of the supervisor's or administrator's employment, except that if the supervisor or administrator reasonably believes that the report has been made by a person who is required to report pursuant to paragraph 1, 2, 4 or 5 of this subsection, the supervisor or administrator is not required to report pursuant to this paragraph.

B.  A report is not required under this section either:

1.  For conduct prescribed by sections 13‑1404 and 13‑1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual.

2.  If a minor is of elementary school age, the physical injury occurs accidentally in the course of typical playground activity during a school day, occurs on the premises of the school that the minor attends and is reported to the legal parent or guardian of the minor and the school maintains a written record of the incident.

C.  If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

D.  Reports shall be made immediately either electronically or by telephone.  The reports shall contain the following information, if known:

1.  The names and addresses of the minor and the minor's parents or the person or persons having custody of the minor.

2.  The minor's age and the nature and extent of the minor's abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.

3.  Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

E.  A health care professional who is regulated pursuant to title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in section 13‑3401 shall immediately report this information, or cause a report to be made, to the department of child safety.  For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.

F.  Any person other than one required to report or cause reports to be made under subsection A of this section who reasonably believes that a minor is or has been a victim of abuse, child abuse, physical injury, a reportable offense or neglect may report the information to a peace officer or to the department of child safety, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.

G.  A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a peace officer, child welfare investigator or child safety worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer, child welfare investigator or child safety worker.  Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

H.  When reports are received by a peace officer, the officer shall immediately notify the department of child safety.  Notwithstanding any other statute, when the department receives these reports, it shall immediately notify a peace officer in the appropriate jurisdiction.

I.  Any person who is required to receive reports pursuant to subsection A of this section may take or cause to be taken photographs of the minor and the vicinity involved.  Forensic interviews or medical examinations, or both, of the involved minor may be performed.

J.  A person who furnishes a report, information or records required or authorized under this section, or a person who participates in a judicial or administrative proceeding or investigation resulting from a report, information or records required or authorized under this section, is immune from any civil or criminal liability by reason of that action unless the person acted with malice or unless the person has been charged with or is suspected of abusing or neglecting the child or children in question.

K.  Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:

1.  Civil or criminal litigation or administrative proceeding in which a minor's neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.

2.  Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.

3.  Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a peace officer or the department of child safety.

L.  In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a Christian Science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the clergy, a Christian Science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. This subsection does not discharge a member of the clergy, a Christian Science practitioner or a priest from the duty to report pursuant to subsection A of this section.

M.  If psychiatric records are requested pursuant to subsection G of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

1.  Personal information about individuals other than the patient.

2.  Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

N.  If any portion of a psychiatric record is excised pursuant to subsection M of this section, a court, on application of a peace officer, child welfare investigator or child safety worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, child abuse, physical injury or neglect be made available to the peace officer, child welfare investigator or child safety worker investigating the abuse, child abuse, physical injury or neglect.

O.  A person who violates this section is guilty of a class 1 misdemeanor, except if the failure to report involves a reportable offense, the person is guilty of a class 6 felony.

P.  For the purposes of this section:

1.  "Abuse" has the same meaning prescribed in section 8‑201.

2.  "Child abuse" means child abuse pursuant to section 13‑3623.

3.  "Neglect" has the same meaning prescribed in section 8‑201.

4.  "Reportable offense" means any of the following:

(a)  Any offense listed in chapters 14 and 35.1 of this title or section 13‑3506.

(b)  Surreptitious photographing, videotaping, filming or digitally recording or viewing a minor pursuant to section 13‑3019.

(c)  Child sex trafficking pursuant to section 13‑3212.

(d)  Incest pursuant to section 13‑3608.

(e)  Unlawful mutilation pursuant to section 13‑1214. END\_STATUTE