



Children's Services



Parent's Guide to New York State Child Neglect and Abuse 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, Children’s Services has produced this Fourth edition of the Parent’s Guide to the New York State Child Neglect and Abuse Laws. Children’s Services acknowledges the many challenges that families and children encounter. This publication provides useful information about the New York State laws that protect children. Below you will read vignettes that give sample situations that parents often have questions about.

To learn more about detecting and reporting child neglect and abuse, or to find out more about preventive foster care or adoption programs, contact The Children’s Services Office of Community Partnerships at 718 488-5311.

INTRODUCTION

Sometimes I keep my oldest 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 do 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.

According to federal law, each State is responsible for providing specific definitions of child neglect and abuse. These laws

describe the circumstances and conditions that would require the intervention of child protection services agencies. The local child protection agency in New York City is Children's Services. Initially, Children's Services does not decide whom to investigate. When someone calls in a report of suspected child neglect or abuse they are contacting the New York State Child Abuse and Maltreatment Hotline, also known as the State Central Register (SCR). If the SCR feels the allegations are valid they will contact the local child protection agency. When an allegation is forwarded by the SCR, Children's Services begins its investigation.

At the completion of the Children's Services investigation the case is either Indicated or Unfounded. When credible evidence is found to support the allegation the case is Indicated. If no credible evidence is found the case is Unfounded. For more information about the investigation process visit the ACS website: www.nyc.gov/acs; http://www.nyc.gov/html/acs/downloads/pdf/childsafety_procces_mr.pdf

Children's Services' mission is "to ensure the safety and well-being

of all the children of New York City." To this end, Children's Services uses all available means to make certain that children do not live in danger of neglect or abuse, whether intentional or unintentional.

Children's Services acknowledges the many challenges that parents and families encounter. In an effort to assist parents or caregivers and prevent the risk of neglect or abuse, Children's Services 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.

Drug Abuse Information Line
(800) 522-5353

**DEPARTMENT OF
EDUCATION (DOE) &
EDUCATIONAL /
EMPLOYMENT TRAINING**

DOE Educational Hotline
(866)427-6033

**NYC DOE Office of Family
Engagement and Advocacy**
(212) 374-2323 (problems
w/DOE)

Training & Employment Hotline
(HRA Info Line)
24 hours/7 days a week
(877) 472-8411

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

FINANCIAL ASSISTANCE

NYC/HRA Child Support
For child support related issues
(HRA Info Line)
24 hours/7 days a week
(877) 472-8411

**NYS Child Support Processing
Center**
Mon-Fri, 9a.m.-5p.m.
(888) 208-4485

Public Assistance Info-line
(HRA Info line) 24 hours/
7 days a week
(877) 472-8411

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) 402-2490

Food and Hunger Hotline
Referrals to local soup kitchens
and food pantries
24 hours/7 days a week
(866) 888-8777

**Food Stamps/Surplus Food
Distribution**
(HRA Info-line)
24 hours/7 days a week
(877) 472-8411

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

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

FOSTER AND ADOPTIVE PARENTING

Children's Services 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
(877) 472-8411

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
311

Child Health Plus
Health care referrals for children under 19.
Mon-Fri, 8a.m.-8p.m.
Sat, 12 noon-5p.m.
(800) 698-4543

HOUSING ASSISTANCE
Eviction Prevention Housing Court Units
Mon-Fri, 9a.m.-5p.m.
(877) 472-8411

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 Immigration Hotline
Responds to general questions about immigration and naturalization benefits. Provides information and referrals. Multi-lingual assistance available.
Mon-Fri, 9a.m.-6p.m.
(800) 566-7636
(212) 419-3737

AIDS & HIV-RELATED SERVICES

AIDS/HIV Hotline
Information, referrals, testing and counseling.
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

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 some resources available to help parents or caregivers access the assistance they may need.

WHAT IS THE CHILD NEGLECT AND ABUSE LAW?

The Family Court Act of the state of New York defines child neglect or abuse 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

serious physical injury other than by accidental means. In addition, it is considered abuse if a parent creates a condition, or allows the condition to be created, that leads to a child becoming the victim of serious physical injury. 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 and inhumane 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 neglect or abuse unless the injury were preventable or foreseeable (for example, leaving a pot of boiling water on a stove while children are in the area). The doctor will only report the injury if he/she suspects the explanation of what occurred is inaccurate.

- *I discipline my children by hitting them. 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?*

No. Using corporal punishment is not necessarily neglect. If the punishment harms the child (causes pain, leaves a mark, etc) it could be considered excessive corporal punishment, which is neglect. Anyone who thinks a parent might be neglecting or abusing a child can make a report to the SCR. If the report to the SCR is accepted, the allegations will be investigated in order to determine that a parent is neglecting or abusing a child.

■ Neglect / Inadequate Guardianship

Parents are responsible for providing a minimum degree of care for their children. 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, unclean or unsanitary living arrangements and similar situations. If a child is not receiving a minimum degree of care because a parent has a mental health condition, that may also constitute “neglect” even though the parent is not at fault.

■ Resource Information NEGLECT AND ABUSE PREVENTION AND INTERVENTION RESOURCES

NYS 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 – New York City Parent Helpline

Provides information and referral services.
24 hours/7 days a week
(800) 342-7472

New York Center for Children

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, 9a.m.-10p.m.
Sat-Sun, 24/7
(718) 330-5400

Family Dynamics

Counseling, parenting classes, afterschool program, respite nursery.

Mon-Fri, 9a.m.-5p.m.
(212) 255-8484

Resources for Children with Special Needs, Inc.

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

Mon-Fri, 9a.m.-5p.m.
(212) 677-4650

New York City Children’s Services

Office of Advocacy Parents’ and Children’s Rights Unit
Mon-Fri, 9a.m.-5p.m.
(212) 676-9421

CHILD CARE

Children’s Services Agency for Child Development

Information on Day Care & Head Start
Mon-Fri, 9a.m.-5p.m.
311

DOMESTIC VIOLENCE

HOPE - Domestic Violence Hotline

Information, referrals, crisis

- *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

A family may be referred for investigation of child neglect or abuse by anyone in the community by means of a call to the state hotline. Certain individuals are required to report their suspicions because of the nature of their jobs.

These “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 including Guidance Counselors and Teachers, Substance Abuse Counselors, Social Service Staff, Social Workers, Physician Assistants, Police Officers, Other Law Enforcement Officials, and Hospital Personnel.

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

Mandated reporters can contact Children’s Services Office of Safety First for assistance: (718) KIDSAFE/(718) 543-7233.

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. Can they do this?*

Yes. Teachers are “mandated reporters”, professionals required by law to report child neglect or abuse. As part of their job, teachers monitor school-children’s physical appearance and hygiene. If you have been contacted by 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 it is appropriate and considerate to contact the school. 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 left

your child without supervision and contact the authorities.

- *Sometimes I leave my two-year-old son at home while I 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. Young children and certain children with special needs may be harmed if they have no caring adult close at hand. 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 himself or herself. The situation may be neglect if the parent makes a poor judgement – for example, leaving a child alone with no

access to a phone or other adults, or in an unprotected home or neighborhood.

Note: While the law does not specify age, very young children and certain other children with special needs 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, refusing 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, in New York City it is compulsory that a child is enrolled and attending school in September of the year that they turn 6 years old. From that time on if the child is consistently absent without a documented excuse, the school is required to investigate the reason for these absences.

- *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. You must contact DOE and seek permission for home schooling. (See resource section at the end of booklet.)

- *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 15 years old and refuses to attend school. It is*

said he would report me. Why?

While it may be expected and permissible in your country, in the U.S., sexual intercourse 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 5 year old child in the bath. Isn't this a form of sexual abuse?*

Probably not – as long as the photographs are not exploitative. Unless the pictures were of a "sexual performance" nature, which occurs when a person, knowing the character and the content, produces, directs, or promotes any performance which includes sexual conduct by a child younger than 17 years old. Even if a particular act is not considered sexual abuse under the law, however, it may be viewed as "improper supervision" amounting to child neglect. The circumstances of each situation

are evaluated to determine if a parent exercised a minimum degree of care for the child's mental and physical condition.

■ Drug and Alcohol Abuse

In New York City, approximately 70% of the cases investigated by Children's Services 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 emotionally and physically neglected. Often, 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 passes out. Can she be reported for child neglect?*

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.

Yes. Failure to follow up with the school nurse's recommendation can obstruct your child's development, and that 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 even to provide routine 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. Unless immediate treatment is necessary or there is an emergency 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 commercial exploitation such as prostitution of a minor or production of pornographic materials.

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. This practice would warrant an investigation by Children's Services.

- *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*

beyond my control to ensure his attendance. Can I be charged with educational neglect?

No. If a parent does everything reasonable to get his or her child to attend school but the child still is truant and does not go to school it is not considered neglect. Parents are expected to seek help in order to address the reasons a child is not attending school. In New York City it is compulsory that children attend school through the end of the school year when they turn 17 years old. So, if a student turns 17 in December they must attend school through the end of the year in June. For assistance if your child is refusing to go to school refer to the resource directory on page 12.

■ Emotional Neglect / 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 neglectful 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). Emotional neglect can also include 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

- *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 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 emotional abuse.

- *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 acceptable in New York?*

It may not be acceptable if it negatively affect the child's health or development. 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, excessive responsibility and isolation. If you are a parent and need help, you should seek help from qualified adults. (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 often 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. You should follow the treatment prescribed for medical, psychiatric, and psychological care. You should

also obtain 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 neglectful?*

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. If the condition gets worse after you try to treat it at home and you still do not seek medical attention it might be considered neglect or even abuse.

- *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 because I feared the truth might 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 cause emergency room personnel to make a report to the SCR.

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

Children's Services will not take your child away just because you seek care for his or her injuries. Regulations mandate that all circumstances relating to the injury be examined and evaluated before Children's Services removes a child from his or her home. The Court must review and approve any removal.

- *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?*