

What is Mandatory Reporting?

Note: This fact sheet was adapted from a longer article by Jessica Mindlin, Esq., and Bonnie Brandl, MSW, entitled, “*Respecting Elders, Protecting Elders: Untangling the Mystery of What Sexual Assault Advocates Need to Know About the Mandatory Reporting of Elder Abuse*” published in **Reshape** (Spring 2011; no. 27).

Mandatory reporting statutes require individuals to report certain injuries or cases of abuse or neglect to law enforcement, social services, and/or a regulatory agency. The most common mandatory reporting laws address child abuse, sexual assault, domestic violence, elder abuse, gunshot wounds, and abuse of vulnerable adults (*e.g.*, persons 18 years or older that are unable to report abuse and/or protect themselves from further harm).

The individuals who are mandated to report elder abuse vary by jurisdiction, as do the particular kinds of injuries or neglect that must be reported and about whom reports must be made.

- In some jurisdictions, everyone must report suspected elder abuse.
- In other states, tribes, or territories, only specific professionals (such as licensed clinical social workers or health care providers) are mandated reporters.
- Often, individuals are encouraged—but not required—to report suspected abuse or neglect. Advocates funded by the Violence Against Women Act (VAWA) may not disclose a victim’s confidential or personally identifying information based on such voluntary or permissive (rather than mandatory) reporting requirements. (See *Part 3: What Advocates Need to Know about Mandatory Reporting of Elder Abuse* for a more comprehensive discussion of advocates’ confidentiality obligations under VAWA.)
- In still other states and territories certain professionals (such as domestic or sexual violence advocates) are expressly exempt from the mandatory reporting laws.



- To determine your obligations, read the mandatory reporting laws in conjunction with your other state, tribal, or territorial statutes, as well as any cases or regulations interpreting the reporting requirements. This is important because sometimes a law may appear to require a victim service provider to report abuse yet closer analysis reveals that the requirements are discretionary, rather than mandatory, under certain conditions. For example, a law may provide that an individual who is otherwise mandated to report is relieved of the obligation if reporting would be harmful to the victim.ⁱ

Disclaimer: The general information presented here is intended for educational purposes only. It does not constitute and is not a substitute for independent legal advice and should not be relied upon for that purpose. If you need legal advice you should consult with your own attorney.

ⁱ See, e.g., Wis. Stat. § 46.90(4) (ae) which provides that a mandatory reporter “is not required to file a report . . . [i]f the person believes that filing a report would not be in the best interest of the elder adult at risk. If the person so believes, the person shall document the reasons for this belief in the case file that the person maintains on the elder adult at risk.”