



When Sexual Intercourse* with a Minor Must Be Reported as Child Abuse by Mandated Reporters: California Law

The California Child Abuse and Neglect Reporting Act requires certain professionals (“mandated reporters”), like teachers and health care providers, to report to child protection or law enforcement when they know or reasonably suspect child abuse. Sexual intercourse with a minor (a person younger than age 18) is reportable as child abuse in three circumstances:

1. WHEN COERCED OR IN ANY OTHER WAY NOT VOLUNTARY

Mandated reporters must report if they have a reasonable suspicion that intercourse with a minor was coerced or in any other way not voluntary. As one example, sexual activity is not voluntary when the victim is unconscious or so intoxicated that he or she cannot resist. *See* Penal Code sections 261 and 11165.1 for more examples.

2. WHEN IT INVOLVES SEXUAL EXPLOITATION OR TRAFFICKING

Mandated reporters must report if they have a reasonable suspicion that a minor has been sexually trafficked or is being sexually exploited. See www.teenhealthlaw.org for more information on this requirement.

3. BASED ON AGE DIFFERENCE BETWEEN PARTNER AND MINOR IN A FEW SITUATIONS

Mandated reporters also must report intercourse with a minor in a few situations based solely on the age difference between the minor and their partner, according to the following chart:

KEY: M = Mandated. A report is mandated based solely on age difference between partner and minor.

J = Use judgment. A report is not mandated based solely on age difference; however, a reporter must report if he or she has a reasonable suspicion that the intercourse was coerced, involved trafficking or exploitation, or was in any other way not voluntary, as described above, irrespective of age..

Age of Partner ⇒ Age of Youth ↓	12	13	14	15	16	17	18	19	20	21	22 & older
11	J	J	M	M	M	M	M	M	M	M	M ⇒
12	J	J	M	M	M	M	M	M	M	M	M ⇒
13	J	J	M	M	M	M	M	M	M	M	M ⇒
14	M	M	J	J	J	J	J	J	J	M	M ⇒
15	M	M	J	J	J	J	J	J	J	M	M ⇒
16	M	M	J	J	J	J	J	J	J	J	J ⇒
17	M	M	J	J	J	J	J	J	J	J	J ⇒
18	M	M	J	J	J	J	Chart design by David Knopf, LCSW, UCSF. (The legal sources for this chart are: Penal Code §§ 261.5, 261, 11165.1, 11165.6, 11166; 249 Cal. Rptr. 762, 769 (3 rd Dist. Ct. App. 1989); 226 Cal. Rptr. 361, 381 (1 st Dist. Ct. App. 1986).				
19	M	M	J	J	J	J					
20	M	M	J	J	J	J					
21 & older	M	M	M	M	J	J					

Do I have a duty to ascertain the age of a minor’s sexual partner for the purpose of child abuse reporting?

No statute or case obligates mandated reporters to ask youth about the age of their sexual partners for the purpose of reporting child abuse. *See* 249 Cal. Rptr. 762, 769 (3rd Dist. Ct. App. 1988).

Do I report pregnancy as child abuse?

The Child Abuse and Neglect Reporting Act states that “the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of child abuse.” Penal Code section 11166(a)(1).

What do I do if I am not sure whether I should report something?

When you aren’t sure whether a report is required or warranted, you may consult with legal counsel and Child Protective Services to ask about the necessity or appropriateness of a referral.

* This worksheet addresses mandated reporting of vaginal intercourse between non-family members. It is not a complete review of all California sexual abuse reporting requirements and should not be relied upon as such. For more information on other reporting rules and how to report in California, check www.teenhealthlaw.org. Legal information, not legal advice. © National Center for Youth Law. June 2017.