

Film Processors as Mandated Reporters

Understanding your duty to report suspected child abuse and neglect

Duty to Report

Film processors may have the occasion to see images of children that appear to depict a child being exploited and/or abused. If you are a film processor in South Carolina and at least 18 years old, you are a mandated reporter and are required by law to report suspected child abuse or neglect under S.C. Code Ann. § 63-7-310.

As a mandated reporter:

- You must make a report when you receive information in your **professional capacity** that gives you **reason to believe** a child has been or may be abused or neglected as defined in S.C. Code Ann. § 63-7-20.
- You do not have to have conclusive proof; your duty to report is triggered when you have a reason to believe that a child depicted in a photo or video has been or may be abused or neglected. By making a report, you are not accusing anyone of anything; you are only requesting an investigation into your concerns involving the photo or video.
- Reporting to a supervisor or person in charge of an institution, school, facility, or agency does not relieve you of your individual duty to report. Your duty to report is not superseded by an internal investigation within an institution, school, facility, or agency.

S.C. Code Ann. § 16-3-850 also requires the following of film processors regarding images containing sexually explicit pictures of minors:

“Any retail or wholesale film processor or photo finisher who is requested to develop film...who views an image of a child younger than eighteen years of age or appearing to be younger than eighteen years of age who is engaging in sexual conduct, sexual performance, or a sexually explicit posture must report the name and address of the individual requesting the development of the film...to law enforcement officials in the state and county or municipality from which the film was originally forwarded.”

Where to Report

Reports may be made to DSS or law enforcement. DSS is responsible for protecting children who have been abused or neglected by their parents or guardians. If you have seen images with sexually explicit pictures of minors, you must make a report to law enforcement as required by S.C. Code Ann. § 16-3-850.

Confidentiality

DSS and law enforcement are required by state law to keep the reporter's identity confidential. S.C. Code Ann. § 63-7-330. Release of the reporter's identity is only allowed under very limited circumstances, for example, when information is needed for conducting a criminal investigation arising from the report or upon a finding that the reporter knowingly made a false report.

Immunity from Liability

Mandated reporters are protected from civil and criminal liability, as long as they make the report in good faith. The law creates a rebuttable presumption that mandated reporters have reported in good faith. S.C. Code Ann. § 63-7-390.

Penalties for Failure to Report

A mandated reporter who knowingly fails to make a report may be charged with a misdemeanor and if convicted, fined up to \$500 or imprisoned up to six months, or both. S.C. Code Ann. § 63-7-410.

Additional Information

For a detailed overview of mandated reporter requirements and how to make a report, see the Mandated Reporter Guide found on the Children's Law Center website at <http://childlaw.sc.edu>.

To schedule a free training on mandated reporting, contact the Children's Law Center at 803-777-1646.