MANDATORY REPORTING OF CHILD ABUSE AND NEGLECT RESOURCE GUIDE

OFFICE OF THE CHILD ADVOCATE
DELAWARE

CHILD PROTECTION ACCOUNTABILITY COMMISSION

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TABLE OF CONTENTS

3 REPORTING LAW

4 HANDLING A DISCLOSURE

5 MINIMAL FACTS

6 MAKING A REPORT

8 MDT RESPONSE

9 DEFINITIONS OF ABUSE AND NEGLECT

12 RISK & PROTECTIVE FACTORS OF ABUSE

13 INDICATORS OF ABUSE

14 FREQUENTLY ASKED QUESTIONS

21 ADDITIONAL RESOURCES

Reporting Law



Under 16 Del. C. § 903, "any **person**, **agency**, **organization**, or **entity** who knows or in good faith suspects child abuse or neglect, including human trafficking of a child, shall make a report." This means that *every person* in Delaware is mandated to report child abuse and neglect, including human trafficking of a child. In addition, agencies, organizations, and entities will be held accountable when individuals fail to report.

The law also clarifies that "no individual with **knowledge of child abuse or neglect**, or knowledge that leads to a good faith suspicion of child abuse or neglect, shall rely on **another individual who has less direct knowledge** to call the report line." This means that an individual does not satisfy his/her statutory, child abuse mandatory reporting obligations if he/she relies on another person without direct knowledge to make the report on his/her behalf.

However, if there are multiple people with direct knowledge of child abuse or neglect, a **joint report** may be made by one person, but it must include **all persons with joint knowledge** of the known or suspect incident of child abuse or neglect. The best practice would be for all the individuals with direct knowledge to call the Report Line together.

Remember, professionals licensed through the **Delaware's Division of Professional Regulation** and **the Department of Education**, **MUST** provide their **name and address** when making reports.

Click here to view the full Delaware Code online

Failure to Report



Individuals who fail to report child abuse or neglect may be liable for a civil penalty. The Division of Family Services (DFS) reports all persons, agencies, organizations, and entities to the **Department of Justice** for investigation if they fail to make mandatory reports of child abuse or neglect to the DFS Report Line. The **civil penalty must** not exceed $10,000 for the first violation, or $50,000 for subsequent violations.

Who Can Be a Perpetrator

A perpetrator is a person who **engages** in child abuse or neglect, and can include:

- A Child's Parent/Caregiver,
- Spouse or Former Spouse of Parent,
- Relative,
- Sibling,
- Another Child, and
- An Employee of a Agency, School, or Organization

It is important to note that **anyone** can be a **perpetrator** of child abuse and neglect.

Handling a Disclosure



Disclosure means a child has chosen you as the person they trust to tell what has happened to them. If a child discloses abuse or neglect, listen, believe, and support the child. Disclosing is scary and the child might think they are in trouble for telling or did something wrong. **Let the child know it is not their fault, they did nothing wrong, and they didn't do anything to deserve what happened to them.**

Immediately after a child discloses, make the report.

How you react to a disclosure matters and it's critical not to traumatize the child further. **Stay calm and don't yell or get upset.** Give the child time and space to talk about what happened. Allow for silence while the child is telling their story and only after they are done, thank them for sharing. If they haven't already shared the information you need to make a report (who, what, when, where), **ask the Minimal Fact Questions but nothing more.** Leave the questions to the trained professionals so the child doesn't have to keep reliving the trauma every time they are questioned.

Never ask the child to undress or take photographs. Do not question the child beyond the Minimal Fact questions. Your only job is to respond to the disclosure and immediately make the report.

Listen, believe, support, and report.

Minimal Facts



Minimal Fact Questions may be necessary when an individual has knowledge or reasonable suspicion of child abuse or neglect AND must make a report to the DFS Report Line. Minimal Fact Questions help reporters to obtain the information needed to make a clear and concise report of child abuse and neglect, and it focuses reporters on the essential information – **who, what, when, and where?**

There are **three scenarios** when individuals may have knowledge or reasonable suspicion of abuse or neglect:

1. **Disclosure** - A child discloses to you
2. **Discover** - You witness the abusive behavior
3. **Reason to Suspect** – You have seen behavioral and/or physical signs of abuse or neglect with child

If you witness an act of abuse or neglect, ensure the child is physically safe, immediately contact the police and then call DFS. It is not necessary to ask the minimal facts in situations where the child is imminent danger.

The Minimal Fact Questions are as follows:

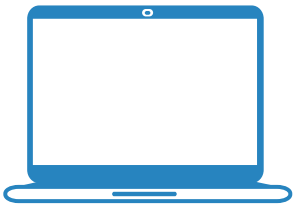
- **What happened?**
- **Who did that to you? Are there other victims/witnesses?**
- **Where did this happen?**
- **When did this happen?**

Make sure to write down the child's exact words. Also, try to limit the number of persons the child interacts with so the child will not have to tell the information over and over again. Finally, if the child is unable to communicate, then make the report based on your observations of the behavioral and/or physical indicators of child abuse or neglect.

Making a Report



800-292-9582



iseethesigns.delaware.gov

All suspected child abuse and neglect of any minor in the state of Delaware must be reported to the **DFS Report Line at 1-800-292-9582. Professionals licensed by the Division of Professional Regulation or Department of Education may NOT report anonymously - you must leave your name [16 Del. C. § 905].**

Mandated reporters must keep in mind that the child's safety could be in jeopardy if a report is not received in a timely manner. When a child's life is in danger, you should call 911 immediately and then make a call to the Report Line.

Oral reports **must** be made to the report line for any of the following circumstances:

- Sexual abuse, including human trafficking of a child, where the alleged perpetrator has access to the alleged victim
- Child death
- A child with a current physical injury
- A child who requires immediate medical attention or an immediate mental health evaluation
- A child who has no caregiver, is currently unsupervised, or is living in conditions that are immediately hazardous to the child's health or safety

Non-emergent reports of child abuse or neglect may be submitted online to DFS at iseethesigns.delaware.gov. Examples of a non-emergent report would be if a child is often dressed inappropriately for the weather, discloses abuse from a distant relative that does not live in their home, or an adult or child discloses an instance of historical abuse or neglect. Online reports satisfy your obligation under the law so long as the online reporting tool is utilized appropriately.

Please note that **online reports are not reviewed immediately like Report Line calls. Online reports should never be used if any of the circumstances listed above are present.** If in doubt about whether a Report Line call is needed, the online reporting tool will provide mandated reporters with direction, as long as the questions are answered accurately. **If the tool determines that a call to the Report Line is warranted, please make the call immediately.**

DFS uses the Structured Decision Making® model for handling reports received through the Report Line. The three main questions that will be asked of the reporter are:

- **What are you worried about?**
- **What is working well?**
- **What needs to happen next?**

These questions act as guides for helping Report Line staff understand the complete scope and nature of the report. Spanish translation is available 24/7. When the reporter leaves their name and number, a translator is on call and will call the reporter back to take the report. Every report is digitally recorded and reviewed by a DFS Report Line supervisor. If informed that your report does not meet criteria for investigation and you continue to have concerns, you should ask to speak to a Report Line Supervisor.

DFS Response

DFS is required to receive **all** suspected reports of child abuse and neglect in the state. Upon receipt of a report of suspected abuse or neglect, **DFS will do one of three things:**



1) Accept the report and investigate the allegations OR conduct a family assessment



2) Refer the report to law enforcement for investigation



3) Document the report but not investigate the allegations

DFS responds according to the priority level given to each investigation case. DFS Response times are:

P1: Within 24 hours;
P2: Within 72 hours;
P3: Within 10 days.

Information Needed

The DFS Report Line may ask reporters to provide information such as:

- Child's statements
- Physical symptoms and/or behavioral changes
- Any information about the way the caregiver's behavior is impacting the care of the child
- Alleged child victim's physical health, mental health, educational status
- Medical attention that may be needed for injuries
- Family composition
- Any information that could put the child's or DFS worker's safety in peril

Demographics can usually be found in the child's records. If you already have the information, then there is no need to ask the child. **Prepare to be on the phone call for about 20 minutes so that you can make a detailed report. Reports by professionals cannot be made anonymously-you must leave your name.**

MDT Response

The Delaware Code requires a comprehensive investigation by a **multidisciplinary team (MDT)** for cases of child abuse and neglect. This approach is described in a Memorandum of Understanding (MOU) between the MDT, which consists of DFS, law enforcement, the Department of Justice and the Children's Advocacy Center.

MDT Roles and Responsibilities:

- **DFS:** is required to receive all suspected reports of child abuse and neglect in the state. However, DFS is only responsible for investigating intrafamilial and institutional cases. The only exception to this is cases of child trafficking. While extrafamilial cases must be reported to DFS, DFS is only responsible for receiving, documenting and referring these cases to law enforcement for investigation.
- **Law enforcement agencies:** are responsible for conducting criminal investigations of child abuse and neglect. Reports may be made to law enforcement but not in lieu of contacting DFS.
- **Department of Justice (DOJ):** are responsible for the prosecution of criminal cases throughout the State from misdemeanors to murders.
- **Children's Advocacy Center (CAC):** Whenever appropriate, cases will also be referred to the CAC for a forensic interview, medical exam and/or mental health screening.

Click here to view the complete MDT response section of the Delaware Code

Definitions of Abuse & Neglect

Physical Abuse

Physical abuse is a **nonaccidental physical injury** to a child caused by a parent, caregiver, or other person responsible for a child. Physical abuse may include:

- Punching,
- Beating,
- Kicking,
- Biting,
- Shaking,
- Choking,
- Hitting (with a hand, stick, strap, or other object)

Any and all of these incidents require an immediate report to the DFS Report Line, and DFS is required to notify law enforcement of potential criminal violations against a child. **Reporters are not responsible for determining if the use of force against a child is justified or unjustified**. DFS or law enforcement will make that determination.

Neglect

The safety and well-being of the child is impacted as a result of:

- **Failure** of a parent or other caregiver to **provide for a child's basic needs** such as food, shelter, medical care, or access to crisis services.
- **Failure** of a parent or caregiver to **provide appropriate supervision** for a child
- Parental or caregiver **substance abuse** which **negatively impacts** the care of a child

Dependency

The parent or caretaker **does not have the ability or financial means and fails to**:

- Provide necessary care and/or;
- Child is living in a non-related home on an extended basis

The term "extended basis" is used to suggest that the child resides in the home, as opposed to just visiting. It is the responsibility of DFS to determine if the living arrangement has been on an extended basis and to explore the appropriateness of the living arrangement through interviews, a home assessment, and background checks.

Definitions of Abuse & Neglect

Sexual Abuse

Sexual abuse is **any sexual act** between **an adult and a minor**, or **between two minors when one exerts power over the other**. It also includes non-contact acts such as exhibitionism, exposure to pornography or voyeurism.

Delaware's consent law is broken down into these age groups:

- **Children less than 12 years old: CANNOT legally consent to sexual contact.**
- **Children ages 12-15 years old: can ONLY consent with someone who is no more than 4 years older than the child.**
- **Children ages 16-17 years old: can consent with someone under 30 years old.**
- **ALL children under 18: CANNOT legally consent to sexual contact with ANYONE in a position of trust, authority, or supervision over them.**

Adult Sexual Misconduct

Adult Sexual Misconduct or ASM is **any activity, physical, sexual, or otherwise**, directed to a student with the **objective** of developing a **romantic or sexual relationship.**

Adult Sexual Misconduct includes a broad range of behaviors, ranging from inappropriate to illegal.

The broad range of behaviors include conduct such as:

- inappropriate verbal conduct
- inappropriate physical conduct
- inappropriate sexual conduct

Commercial Sexual Exploitation

Commercial Sexual Exploitation is the broad term under which Domestic Minor Sex Trafficking (Child Trafficking) is categorized. It includes the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age.

Reminder: DFS is required by statute to investigate all cases of suspected Child Trafficking. Even if the child is known to DFS a separate report must be made.

Definitions of Abuse & Neglect

Grooming

Grooming for the **purpose of sexual contact** means **actions, interactions, communications** in any capacity, and **behaviors** by a person of trust to build a relationship with a student or individuals close to the student in an effort to gain access to and time alone with the student, with the **ultimate goal of engaging in sexual contact or sexual penetration with the student**, regardless of when in the student's life the sexual contact or sexual penetration would take place.

Emotional Maltreatment

Emotional Maltreatment is sometimes defined as psychological maltreatment, which includes both emotional abuse and emotional neglect:

- **Emotional Abuse**— A pattern of behavior that impairs a child's emotional development or sense of self-worth.
- **Emotional Neglect**— incidents of isolating/shunning, rejecting, or ignoring a child.

Domestic Violence

Domestic violence is the willful intimidation, physical assault, battery, sexual assault, and/or other **abusive behavior** as part of a systematic **pattern of power and control** perpetrated by one intimate partner against another. Cases involving children must be reported to DFS when:

- A child is injured during a domestic violence incident;
- A parent or caregiver in the household sustains a serious injury during an incident of domestic violence that results in visible injury, involves strangulation, or involves the use of a weapon;
- A child is exposed to ongoing family violence that may increase the risk of harm, including incidents involving escalating violence, threats, intimidation, weapons, or other unsafe conditions in the home;
- A child is repeatedly exposed to domestic violence and exhibits emotional or behavioral indicators (e.g., fear, anxiety, or behavioral changes).

Understanding **risk and protective factors** of child abuse or neglect is important as it is a way to connect families to resources they may need. Please see below for more information on risk and protective factors.

Risk Factors of Abuse

Child abuse and neglect affects children of every age, race, and income level.

However, research has identified many factors relating to the child, family, community, and society that are associated with an increased risk of experiencing child abuse or neglect. Common risk factors include the following:

- Individual Risk Factors— infants and young children, special needs, presence of non-biological or transient caregivers in the home, or the child is female.
- Family Risk Factors— substance abuse, mental health, intergenerational trauma, family violence, young age, low education level, unstable family structure, inability to meet basic needs, and a lack of understanding of what a child needs, their development or parenting skills.
- Community Risk Factors— community violence, concentrated neighborhood disadvantage, high unemployment rates, poor social connections.

Protective Factors of Abuse

Protective factors refer to a set of characteristics that can both help reduce the risk of child abuse and neglect and increase the well-being of children and families. These protective factors are positive elements that have positive effects on children, families, and communities. Common protective factors include the following:

- **Individual Risk Factors**— good health, above-average intelligence, positive peer relationships, hobbies and interests, personality factors
- **Family Risk Factors**— secure attachment, positive parent-child relationship, supportive family environment, extended family support, and stable familial relationships.
- **Community Risk Factors**— mid-to-high socioeconomic status, access to health care and social services, adequate housing, good schools available, mentoring opportunities (or relationships) for youth.

Indicators of Abuse & Neglect

	Physical Indicators	Behavioral Indicators
Physical Abuse	• Unexplained bruising, lacerations, fractures or burns, human bite marks, or bald spots • Unable to use an arm/bear weight • Wearing clothing that covers body when not appropriate	• Complaining of soreness • Shrinking at the approach of adults • Reports injury by caregiver
Sexual Abuse	• Difficulty walking or sitting • Bedwetting/soiling • Sexually Transmitted Infections or early pregnancies • Inappropriate sexual behaviors for developmental stage	• Runs away, attempts suicide • Refusal to be left alone • Significant changes in mood, behavior, appetite, school performance
Sexual Exploitation	• Has multiple cell phones, large amounts of cash, or prepaid cards • Name or symbol tattooed, burned, or branded onto their body • Referencing traveling to other cities or states or traveling job opportunities	• Significant changes in behavior or associating with a new group of friends • Refusing to ask for help or resisting offers to get out of the situation • Being preoccupied with “getting money”
Neglect	• Poor hygiene, inappropriate dress • Consistent lack of supervision • Unattended physical problems or medical needs	• Consistent hunger • Poor social skills • Stealing food • Poor school attendance
Emotional Maltreatment	• Delay in physical or emotional development • Inability to develop emotional bonds with others • Social isolation	• Inappropriately mature or inappropriately infantile • Extremes in behavior (i.e. being overly compliant or demanding, extremely passive, or aggressive)

Frequently Asked Questions

1. Can I be held liable for making a report of child abuse or neglect?
As long as you make a report of child abuse or neglect in good faith you will have immunity from any liability, civil or criminal, so long as the report is made without malice or willful misconduct. [16 Del. C. § 908]

2. What if my organization/entity requires me to notify an administrator or other employee (such as a School Resource Officer (SRO), counselor or nurse) before making a report to DFS?
In Delaware, we have been very clear that a report must first be made to the DFS Report Line. Then, the administrator should be notified immediately after. This is because there have been situations where an administrator has discouraged an individual from making a report, or has required approval prior to making a report. Agencies, organizations or entities may be exposed to civil penalties if an administrator makes a decision not to report on behalf of the individual.

3. Do I satisfy my statutory, child abuse mandatory reporting obligations by only contacting the law enforcement agency?
No. The statute requires an immediate report to the Division of Family Services (DFS) Report Line. Law enforcement may also be contacted but not in lieu of contacting DFS. [16 Del. C. § 904]

4. Am I violating HIPAA when I make a report?
No. The Health Insurance Portability and Accountability Act (HIPAA) of 1996 does not preclude reporting suspected child abuse.

5. Can I make an anonymous report? Does DFS release the name of the reporter?
No. Professionals licensed by the Department of Professional Regulation and Department of Education **may not** report anonymously, as there is no way to verify that you made a report. As a reminder, DFS **does not** release the name of the reporter. [16 Del. C. § 905]

6. Can information about a DFS investigation be shared?
In general, DFS will share information only when there is a signed release of information. However, DFS, law enforcement, the Children's Advocacy Center and the Department of Justice exchange information on families and children when there is a shared client and this information is needed to assist an investigation.

Frequently Asked Questions

7. Can I be told any information about the disposition of my report?
DSCYF will make the general disposition of the report available. The reporter may contact DSCYF to request an update on the report. [16 Del. C. § 903]

8. What if I do not have proof that a child is being abused or neglected?
You do not need to have proof, evidence, or a confession of any alleged abuse or neglect to make a report to the DFS Report Line. You only need knowledge to reasonably suspect abuse or neglect though physical or behavioral signs of maltreatment.

9. What are the categories of child abuse and neglect?
Child abuse and neglect is categorized based on the identity of the perpetrator. The three categories are: intrafamilial, extrafamilial, and institutional.

- **Intrafamilial**– Any child abuse or neglect involving a parent, guardian, custodian, or any other members of the child's family or household.
- **Extrafamilial**– Any child abuse or neglect involving an alleged perpetrator who is not a member of the child's family or household AND does not involve institutional abuse/neglect.
- **Institutional**– Any child abuse or neglect which has occurred to a child in the custody of the Department of Services for Children, Youth & Families (DSCYF) and/or placed in a facility, center or home operated, contracted or licensed by DSCYF.

10. Should I call the DFS Report Line to report a child that is in crisis??
If you become aware of a child in crisis (i.e. suicide talk or attempts) a report should be made to the Division of Prevention and Behavioral Health Services 24-Hour Mobile Response and Stabilization Services at 1-800-969-HELP (4357). This will ensure that the child is connected to the appropriate services immediately.

11. Are youth serving in a professional capacity such as a camp counselor required to make a report?
No, youth who are serving in a professional capacity are not required to make a report, however any adult who suspects child abuse or neglect, must make a report to the to the Division of Family Services (DFS) Report Line.

Frequently Asked Questions

11. How do I tell the difference between physical abuse and accidental injury?

- Cuts and bruises caused from accidents normally occur on bony areas of the body.
- Reoccurring injuries likely indicate abuse.
- If a series of injuries appear in a pattern or resemble an object, the injury may have been inflicted.
- If the child's or caregiver's explanation for the injury is inconsistent with the facts, the injury would be suspicious.
- Suspect abuse if the caregiver delayed in seeking medical attention.

12. What is considered "normal" vs. abusive sexual behavior in children?

Childhood sexual behavior is common and varies based on age and developmental level.

However, you should call the Report Line for concerns with childhood sexual behavior that:

- Is clearly beyond the child's developmental stage (a three-year-old attempting to kiss an adult's genitals).
- Involves threats, force, or aggression.
- Involves children of widely different ages or abilities (an 11-year-old inappropriately touching a four-year-old).

13. Does sexting need to be reported?

Sexting or youth produced sexual images are nude, sexually suggestive, or explicit images possessed and/or transmitted by way of cell phone, electronic device or online. The transmission of youth-produced sexual images makes sexting unlawful. A report must be made to the DFS Report Line when:

- Child did not consent to being photographed or recorded, or
- Cannot consent to the sexual act or to being photographed or recorded due to his or her age (under 12).
- Youth did not consent to the dissemination or the dissemination is used for an unlawful purpose (such as sold for profit, or used to harass or intimidate).

14. Are mandated reporters statutorily required to notify DFS of child abuse or neglect that occurred out of state?

Yes. Delaware's child abuse mandatory reporting law does not limit the reports of child abuse or neglect to incidents that occur only within Delaware. The Report Line will accept calls of child abuse or neglect that may have occurred out of state.

Frequently Asked Questions

15. At what age can a child be left alone?
Delaware law does not specify an age when a child may be left alone. For any aged child, DFS considers factors such as the child's level of functioning, maturity, physical and mental health, disabilities, length of time alone, and the time of day. Mandated reporters must contact the Report Line if they have knowledge or reasonable suspicion that a child has been left alone for a period of time that is inappropriate for the child's age or developmental status. DFS recommends never leaving a child alone in a car, regardless of age.

16. What if I already made a report, but the situation has not changed?
If there are new instances you are concerned about, call the DFS Report Line immediately. If you only have ongoing concerns about the status of your report, you can call the Report Line and ask for your contact information to be shared with the assigned worker and request this worker call you back. Please note that DFS is unable to share information regarding case status or interventions taken.

17. Does the law require a report when an adult discloses abuse or neglect that happened when they were a child?
Yes, reports about past child abuse or neglect are also required. Reports must be made even when it is suspected that the alleged offender is deceased, was charged/prosecuted, or is unknown, and this information must be corroborated by the proper authorities. Please also remember:

- Young adults may still be in the custody of DSCYF until the age of 21, so DSCYF must be notified of these allegations.
- In other situations where one particular victim of abuse or neglect is now an adult, other children may still be at risk of victimization by the alleged offender.

18. Does this obligation exist if the adult refuses to provide information?
Yes, so long as the information originally provided by the individual creates a good faith suspicion.

19. Does this obligation exist if the adult provides a vague disclosure (e.g. I was raped as a child) and no other minimal facts (who, what, when, and where)?
Yes, a report must still be made to the DFS Report Line.

20. Is this requirement limited to sexual abuse since there is no statute of limitations?
No, all child abuse and neglect must be reported to the DFS Report Line.

If you suspect a child is being abused or neglected



First, gather the Minimal Facts, <u>but nothing else</u>

1. What happened?
2. When did it happen?
3. Where did it happen?
4. Who did this to you?
5. Are there any other victims or witnesses?

Then, make the report to the Division of Family Services (DFS)



- Call the 24/7 Report Line at 800-292-9582
- OR report online at iseethesigns.delaware.gov

<u>To learn more, click here to access the Delaware Learning Center to take CPAC's 30-minute Minimal Facts Training</u>

Making a Report to the Division of Family Services Child Abuse and Neglect Report Line

Updated Oct 2021

START

A child discloses abuse or neglect OR you have seen behavioral and/or physical signs of abuse or neglect.

Ensure the child's immediate safety. Ask the minimal fact questions to gather missing information: **What** happened? **When** did it happen? **Where** did it happen? **Who** did this to you?

Child discloses abuse **OR** injuries are suspicious for abuse and child doesn't provide reasonable explanation

Report to DFS Child Abuse and Neglect Report Line

START

You suspect neglect or abuse based on behavioral and/or physical indicators

Ask the minimal fact questions to gather missing information: **What** happened? **When** did it happen? **Where** did it happen? **Who** did this to you?

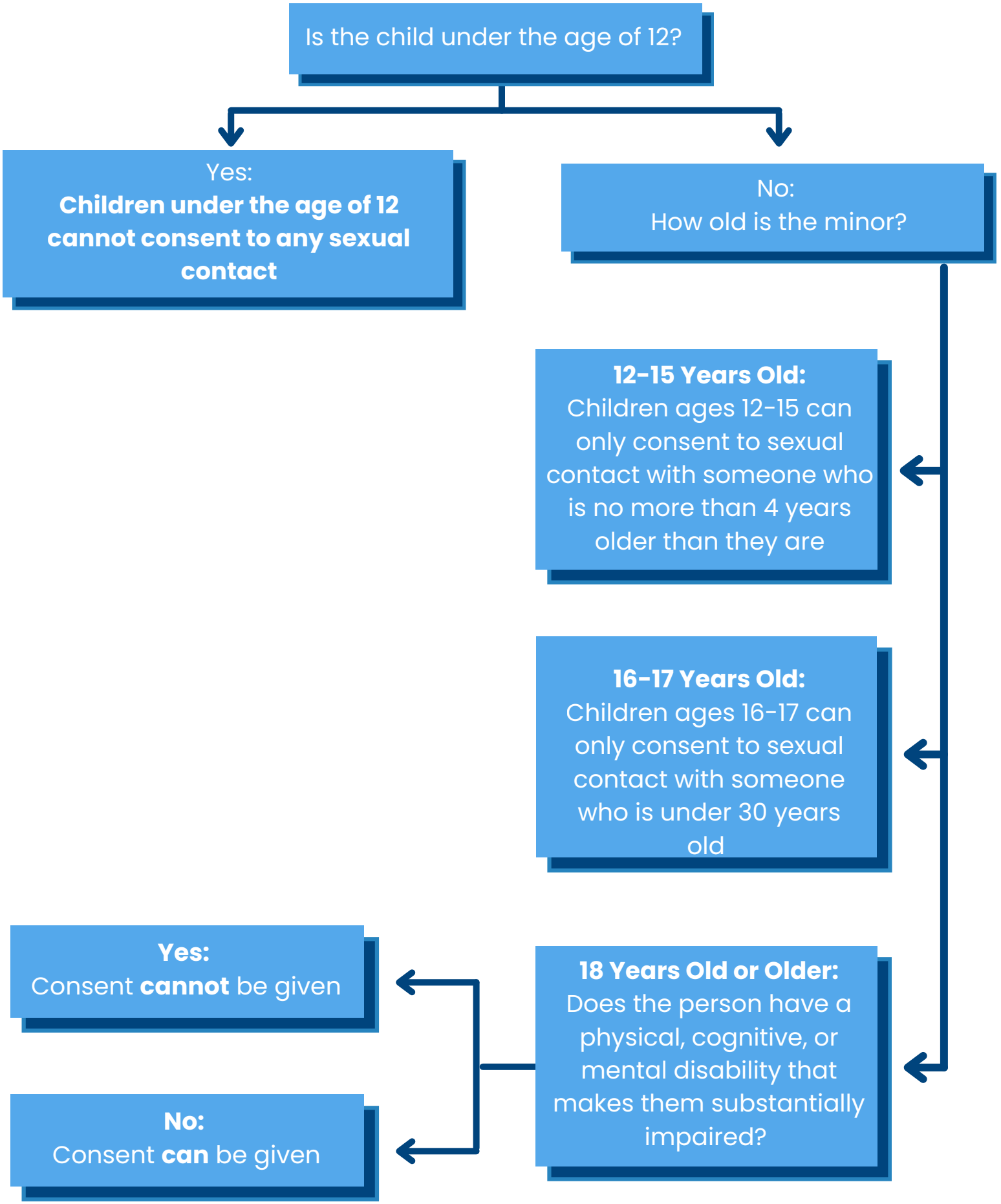
Child does not disclose abuse or neglect **AND** explanation of indicators is consistent with accidental injury, medical condition, or psychological/social issue

Report not needed, however, document the situation

Making a report:

- All persons with direct knowledge must make an immediate report to the DFS Report Line
- **If child's immediate safety is a concern, call 911**
- Have records for family and child ready, if you have access to them
- Share your concerns regarding siblings, domestic violence, substance abuse, dangerous animals, and weapons with the DFS staff
- You will be asked the minimal fact questions and what your concerns are

State of Delaware Age of Consent Flowchart



Resources for Parents, Caregivers, and Families

Legal Resources

Family Court
Community Legal Aid Society (CLASI)
Delaware Volunteer Legal Services (DVLS)
Legal Services Corporation (LSC)
Office of Defense Services

Child Support, Custody, & Child Welfare Resources

Division of Child Support Services
Family Court: Child Custody
Division of Family Services (DFS)
Report Child Abuse & Neglect

Counseling & Support Resources

Child Inc. (New Castle County)
People's Place (Kent & Sussex Counties)
Children and Families First
Delaware Guidance Services
Latin American Community Center
Jewish Family Services

Education & Employment Resources

Parent Information Center of Delaware
Delaware Department of Education
Division of Employment & Training
Division of Vocational Rehabilitation
Jobs for Delaware Graduates

Housing Resources

Delaware State Housing Authority
Delaware Housing Search
Foreclosure Mediation Program

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