

1. [34 V.I.C. § 453](#), (2016), TITLE THIRTY-FOUR Welfare, Chapter 15. The Elder and Dependent Adult Abuse Prevention Act, § 453. Mandated reporter; duties, Copyright © 2016 Office of the Code Revisor, Legislature of the Virgin Islands

(a) Any **mandated** reporter who, in the **mandated** reporter's professional capacity, or within the scope of the **mandated** reporter's employment, has observed or has knowledge of an incident that reasonably appears to be physical **abuse**, abandonment, abduction, isolation, financial **abuse**, or neglect, or is told by an elder or dependent adult that he has experienced behavior, including an act or omission, constituting **abuse**, abandonment, abduction, isolation, financial **abuse**, or neglect, or reasonably suspects such conduct is taking place, shall **report** the known or **suspected** instance of **abuse** by telephone immediately or as soon as reasonable practicable, and by written **report** sent within two working days from the date of the reported incident to the Department of Human Services or the local law enforcement agency. (b) (1) Any **mandated** reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult **abuse** for which **reports** are not **mandated** have been inflicted upon an elder or dependent adult, or that the elder's or dependent adult's emotional well-being is endangered in any other way, shall **report** the known or **suspected** instance of **abuse** to the Department of Human Services. (2) If the conduct involves criminal activity, the **mandated** reporter or any **person** shall **report** it immediately to the appropriate law enforcement agency. (c) When two or more **mandated** reporters are present and jointly have knowledge or reasonably suspect that types of **abuse** of an elder or dependent adult for which a **report** is or is not **mandated** have occurred, and when there is agreement among them, the telephone **report** may be made by a member of the team selected by mutual agreement, and a single **report** may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to **report** has failed to do so shall thereafter make the **report**. (d) A telephone **report** of a known or **suspected** instance of elder or dependent adult **abuse** must include, the name of the **person** making the **report**, and if known, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other **person** responsible for the elder or dependent adult's care, the nature and extent of the elder or dependent adult's condition, the date of the incident, and any other information, including information that led that **person** to suspect elder or dependent adult **abuse**, as requested by the agency receiving the **report**. (e) The reporting duties under this section are confidential and no supervisor or administrator may impede or inhibit the reporting duties, and no **person** making the **report** may be subject to any sanction for making the **report**. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of **reports** may be established, if they are not inconsistent with this chapter. (f) Any **mandated** reporter, administrator or supervisor who: (1) fails to **report** **abuse** or neglect of an elder or dependent adult, in violation of this section, is guilty of a misdemeanor, ...
... not more than six months' imprisonment, or both such fine and imprisonment;
or (2) fails to **report** **abuse** or neglect of an elder or dependent adult, in violation of this section, when that **abuse** or neglect results in death or great bodily injury, is guilty of a misdemeanor, ...

2. [5 V.I.C. § 2533](#), (2016), TITLE FIVE Judicial Procedure, Subtitle 2 Family Division Procedure, Chapter 201. Family Division of the Superior Court, Subchapter

IV. Abuse and Neglect Matters, § 2533. Persons mandated to report suspected abuse, sexual abuse and neglect, Copyright © 2016 Office of the Code Revisor, Legislature of the Virgin Islands

(a) When any physician, hospital personnel engaged in the admission, examination, care or treatment of **persons**, nurse, dentist or any other medical or mental health professional, school teacher or other ...
... officer or law enforcement official, has reasonable cause to suspect that a child has been subjected to **abuse**, sexual **abuse** or neglect, or observes the child being subjected to conditions or circumstances that would reasonably result in **abuse** or neglect, he shall immediately **report** it or cause a **report** to be made in accordance with the provisions of this subchapter. (b) Whenever any **person** is required to **report** under this subchapter in his capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, he shall immediately notify the **person** in charge of such institution, school facility or agency, or his designated agent, who shall then also become responsible to **report** or cause **reports** to be made. However, nothing in this subchapter is intended to require more than one **report** from any such institution, school or agency; but neither is it intended to prevent individuals from reporting on their own behalf. (c) In addition to those **persons** and officials specifically required to **report suspected child abuse**, sexual **abuse** and neglect, any other **person** may make a **report if such person** has reasonable cause to suspect that a child has been abused or neglected or observes the child has been abused or neglected or observes the child being subjected to conditions or circumstances that would reasonably result in **abuse** or neglect.

3. [34 V.I.C. § 459](#), (2016), TITLE THIRTY-FOUR Welfare, Chapter 15. The Elder and Dependent Adult Abuse Prevention Act, § 459. Cross-report to law enforcement agency and licensing agency, Copyright © 2016 Office of the Code Revisor, Legislature of the Virgin Islands

(a) The Department of Human Services, local law enforcement agencies and the ombudsman shall **report** the results of their investigations, referrals or **reports** of elder or dependent adult **abuse** to the respective referring or reporting agencies in the following manner: (1) The Department of Human Services shall, within 24 hours after the reported incident or as soon as practicable, **report** by telephone to the law enforcement agency having jurisdiction over the case of any known or **suspected** instance of criminal activity, and to any public agency given responsibility for investigation in that jurisdiction of cases of elder or dependent adult **abuse**, every known or **suspected** instance of **abuse** of an elder or dependent adult. The Department of Human Services shall also send a written **report** of the alleged incident within two working days from receiving the information concerning the incident to each agency to which it is required to make a telephone **report** under this subsection. (2) The Police Department or other law enforcement agency shall, within 8 hours or as soon as practicable, **report** by telephone to the Department of Human Services every known or **suspected** instance of **abuse** of an elder or dependent adult. A local law enforcement agency shall also send a written **report** within two working days after receiving the information concerning the incident to any agency to which it is required to make a telephone **report** under this subsection. (3) If the Department Human Services or local law enforcement agency or ombudsman receiving a **report** of known or **suspected** elder or dependent **abuse** determines,

pursuant to its investigation, that the **abuse** is being committed by a health practitioner licensed under Virgin Islands law, or by a **person** purporting to be a licensee, the Department Human Services, Police Department or other law enforcement agency or ombudsman, shall **report** this information to the appropriate licensing agency within 8 hours after receiving the **report**, or as soon as practicable. The licensing agency shall investigate the **report** in light of the potential for physical harm. The transmittal of information to the appropriate licensing ...

... reported under this paragraph must remain confidential and may not be disclosed. (b) Any **person** may **report** any instance of **abuse**, neglect or abandonment occurring in a health care facility which has seriously harmed any ... serious threat to the health or physical well-being of a patient in that facility. The **report** must contain information about the circumstances related to the reported neglect but must ... potential victim and the Department of Human Services and the reporting agency shall maintain the confidentiality of the **report** until the **report** becomes a matter of public record.

4. [34 V.I.C. § 454](#), (2016), TITLE THIRTY-FOUR Welfare, Chapter 15. The Elder and Dependent Adult Abuse Prevention Act, § 454. Other persons making report, Copyright © 2016 Office of the Code Revisor, Legislature of the Virgin Islands

Any **person** who is not a **mandated** reporter under this chapter, who knows, or reasonably suspects, that an elder or dependent adult has been the victim of **abuse** may **report the abuse** to a local law enforcement agency.

5. [34 V.I.C. § 463](#), (2016), TITLE THIRTY-FOUR Welfare, Chapter 15. The Elder and Dependent Adult Abuse Prevention Act, § 463. Provision of instructional materials regarding elder and dependent adult abuse and neglect, Copyright © 2016 Office of the Code Revisor, Legislature of the Virgin Islands

... Health shall provide organizations with instructional materials regarding elder and dependent adult **abuse** and neglect and their obligation to **report** under this chapter. At a minimum, the instructional materials must include the following: (a) An explanation of elder or dependent adult **abuse** and neglect, as defined in this chapter; (b) Information on how to recognize potential elder or dependent adult **abuse** and neglect; (c) Information on how **reports** of known or **suspected abuse** and neglect are investigated; and (d) Instructions on how to **report** known or **suspected** incidents of **abuse** and neglect, including the appropriate telephone numbers to call and the types of information that would assist with the investigation of the **report**.

6. [34 V.I.C. § 458](#), (2016), TITLE THIRTY-FOUR Welfare, Chapter 15. The Elder and Dependent Adult Abuse Prevention Act, § 458. Immunity from liability of persons authorized to report abuse; attorney costs, Copyright © 2016 Office of the Code Revisor, Legislature of the Virgin Islands

... a local law enforcement agency is not civilly or criminally liable for any **report** required or authorized by this chapter. (b) Any other **person** reporting a known or **suspected** instance of elder or dependent adult **abuse** does not incur civil or criminal liability as a result of any **report** authorized by this chapter, unless

it can be proven that a false **report** was made and the **person** knew that the **report** was false. (c) A care custodian, clergy member, health practitioner, or an employee of the ...

... a claim for reasonable attorney's fees incurred in any action against that **person** on the basis of making a **report** required or authorized by this chapter, if the court has dismissed the action to have the other party incur such ...

7. [34 V.I.C. § 464](#), (2016), TITLE THIRTY-FOUR Welfare, Chapter 15. The Elder and Dependent Adult Abuse Prevention Act, § 464. Forms for written abuse reports; contents, Copyright © 2016 Office of the Code Revisor, Legislature of the Virgin Islands

(a) (1) The written **abuse reports** required for the reporting of **abuse**, as defined in this chapter, must be submitted on forms adopted by the Department of Human ...

... distribute these reporting forms. The reporting form may also be used for documenting the telephone **report** of a known or **suspected** instances of **abuse** of an elder or dependent adult by the Department of Human Services, ombudsman program, and local ...

... must contain all of the following items: (A) The name, address, telephone number, and occupation of the **person** reporting; (B) The name and address of the victim; (C) The date, time, and place of the incident; (...

... connection to the victim. (b) (1) Each district of the Department Human Services shall **report** to the Commissioner of the Department of Human Services monthly on the **reports** received under to this chapter. The **reports** must be made on forms adopted by the Department. The information reported must include, but must not be limited to, the number of incidents of **abuse**, the number of **persons** abused, the type of **abuses** sustained, and the actions taken on the **reports**. For purposes of these **reports**, sexual **abuse** must be reported separately from physical **abuse**. (2) The department shall refer to the Department of Health monthly data summaries of the **reports** of elder or dependent adult **abuse**, neglect, abandonment, isolation, and financial **abuse**, and other **abuse** it receives from district adult protective services agencies.

8. [5 V.I.C. § 2540](#), (2016), TITLE FIVE Judicial Procedure, Subtitle 2 Family Division Procedure, Chapter 201. Family Division of the Superior Court, Subchapter IV. Abuse and Neglect Matters, § 2540. Confidentiality of records, Copyright © 2016 Office of the Code Revisor, Legislature of the Virgin Islands

(a) In order to protect the rights of the child and his parent or guardian, all records concerning **reports** of child **abuse**, sexual **abuse** or neglect, made to the government of the Virgin Islands and all records generated as a result of such **reports**, shall be confidential, except as specifically provided by this subchapter. Any **person** who willfully permits, assists or encourages the release of information contained in such **reports** or records to **persons** or agencies not permitted by this section to have access, shall be guilty of a misdemeanor and ...

... more than \$ 500 or imprisoned not more than one year or both. (b) No **person**, official or agency shall have access to such records unless for the express purpose of acting pursuant to this subchapter. **Persons** permitted access include: (1) The Department of Social Welfare and its legal

representative; (2) The U.S. Virgin Islands Police Department (V.I.P.D.) when investigating a **report** of known or **suspected** child **abuse**, sexual **abuse** or neglect; (3) A physician who has before him a child he reasonably suspects may have been abused or neglected; (4) A **person** legally authorized to place a child in emergency temporary custody under section 2544 of this chapter, but only when such **person** has before him a child he reasonably suspects may have been abused or neglected and such **person** requires the information in the **report** or record to determine whether or not to place the child in emergency temporary custody; (5) Any ...
... care for, treat or supervise a child who is the subject of a record, or other **person** responsible for the child's welfare; (6) Any **person** who is the subject of a **report** and his legal representative, or if such **person** is a child, the child's guardian ad litem, parent, guardian or other **person** responsible for his welfare; and (7) A court, upon finding that access to such record ...
... disclosure of the information contained therein is necessary for the resolution of an issue pending before it. (8) Any **person** appointed to a case under a Court Appointed Special Advocates (CASA) Program, as provided under section 2555, of this chapter. (c) A **person** given access to the names and other identifying information concerning the subjects of the **report**, except the subject of the **report**, shall not divulge or make public such identifying information.

9. [34 V.I.C. § 456](#), (2016), TITLE THIRTY-FOUR Welfare, Chapter 15. The Elder and Dependent Adult Abuse Prevention Act, § 456. Disclosure; penalties, Copyright © 2016 Office of the Code Revisor, Legislature of the Virgin Islands

(a) The **reports** required by this chapter are confidential and may be disclosed only as provided in this section. Any ...
... 500 or not less than six month's imprisonment, or both such fine and imprisonment. (b) **Reports of suspected** elder or dependent adult **abuse** and information contained in the **reports** may be disclosed only to the following: (1) **Persons** or agencies to which disclosure of information or the identity of the reporting party is permitted; (2) (A) Multidisciplinary ...
... may disclose to one another information and records that are relevant to the prevention, identification, or treatment of **abuse** of elder or dependent adults. (B) Any personnel of the multidisciplinary team or agency who receives information under to this chapter, is under the same obligations and subject to the same confidentiality penalties as the **person** disclosing or providing that information. The information obtained must be maintained in a manner that ...
... confidentiality rights. (c) (1) Whenever this chapter requires the Department Human Services to **report** to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative **report** concerning the reported matter to that district of the Department Human Services. (2) Whenever this chapter requires a law enforcement agency to **report** to the Department Human Services, the Department Human Services shall, immediately upon request, provide to that law enforcement agency a copy of its investigative **report** concerning the reported matter. (d) This section may not be construed to allow disclosure of any investigative **reports** or records relevant to the **reports** if the disclosure would be prohibited by any other provision of territorial or federal law.

10. [34 V.I.C. § 467](#), (2016), TITLE THIRTY-FOUR Welfare, Chapter 15. The Elder and

Dependent Adult Abuse Prevention Act, § 467. Statement as to knowledge of compliance with reporting requirements, Copyright © 2016 Office of the Code Revisor, Legislature of the Virgin Islands

(a) Any **person** who enters into employment on or after January 1, 2009, as a care custodian, clergy ...
... sign a statement on a form provided by the prospective employer, to the effect that the **person** has knowledge of this chapter and will comply with its provisions. Employers shall provide a copy of this chapter to their employees. The statement must inform the employee that the employee is a **mandated** reporter and inform the employee of their reporting obligations under this chapter. The employer shall retain the signed statement. (b) Agencies or facilities that employ **persons** who were employed prior to January 1, 2009, and who are required to make **reports** pursuant to this chapter, shall inform those employees of their responsibility to make **reports** by delivering to them a copy of the statement specified in subsection (a). (c) On and after January 1, 2009, when a **person** is issued a license or certificate to engage in a profession or occupation the members of which are required to make a **report** pursuant to this chapter, the Department issuing the license or certificate shall-- (1) send to the **person** a statement substantially similar to the one contained in subsection (a) at the same time that it transmits to the **person** the document indicating licensure or certification; or (2) cause the required statement to be printed on all application ...
... c), are the full extent of the employer's duty under this section. The failure of any employee or other **person** associated with the employer to **report abuse** of elders and dependent adults or otherwise meet the requirements of this chapter is the sole responsibility of that **person**. The employer or facility incurs no civil or other liability for the failure of these **persons** to comply with the requirements of this chapter.

§ 2534. Reporting procedures

(a) **Reports** of child **abuse**, sexual **abuse** or neglect made pursuant to this subchapter shall be made immediately by telephone or otherwise to the U.S. Virgin Islands Police Department (V.I.P.D.) or to the Department of Social Welfare. The U.S. Virgin Islands Police Department (V.I.P.D.) shall relay such **reports** to the Department of Social Welfare immediately or, at the latest, at the commencement of the next regular office hours of the Department of Social Welfare. At the request of the Department of Social Welfare, an oral **report** shall be followed by a written **report** within 48 hours.

(b) To the extent possible, such **reports** shall include the following information: the names and addresses of the child and his parents or other **persons** responsible for his care; the child's age and sex; the nature and extent of the child's injuries, sexual **abuse** or neglect to the child or any other child in the same home; the name and address of the **person** responsible for the injuries, sexual **abuse** or neglect, the family composition, the source of the **report**, including the name of the **person** making the **report**, his occupation and his address; any action taken by the reporting source, including the taking of X-rays or color photographs or filing for temporary custody; and any other information that the **person** making the **report** believes may further the purpose of this subchapter.

HISTORY: --Added Sept. 24, 1983, No. 4855, § 2, Sess. L. 1983, p. 173; amended June 15, 1984, No. 4964, § 1(b), Sess. L. 1984, p. 177.

§ 458. Immunity from liability of persons authorized to report abuse; attorney costs

(a) A care custodian, clergy member, health practitioner, or employee of the Department of Human Services or a local law enforcement agency is not civilly or criminally liable for any report required or authorized by this chapter.

(b) Any other person reporting a known or suspected instance of elder or dependent adult abuse does not incur civil or criminal liability as a result of any report authorized by this chapter, unless it can be proven that a false report was made and the person knew that the report was false.

(c) A care custodian, clergy member, health practitioner, or an employee of the Department of Human Services or a local law enforcement agency may present to the Department of Human Services a claim for reasonable attorney's fees incurred in any action against that person on the basis of making a report required or authorized by this chapter, if the court has dismissed the action to have the other party incur such costs when assessed. The Department of Human Services shall allow the claim if the requirements of this chapter are met, and the claim must be paid from an appropriation from the Public Assistance Fund, established in 34 V.I.C. § 14. Attorneys' fees awarded pursuant to this section may not exceed an hourly rate greater than allowed under 5 V.I.C., § 3503(b) at the time the award is made and may not exceed an aggregate amount of \$ 10,000. This subsection does not apply if a public entity has provided for the defense of the action.

HISTORY: --Added May 14, 2008, No. 7002, § 1, Sess. L. 2008, pp. 100, 101.

§ 2538. Abrogation of privileged communications

The privileged quality of communications between husband and wife and between any professional person and his patient or his client, except that between attorney and client, is hereby abrogated in situations involving alleged child abuse, sexual abuse or neglect. Such privileged communications, excluding those of attorney and client, shall not constitute grounds for failure to report as required or permitted by this subchapter, or to give or accept evidence in any judicial proceedings relating to child abuse, sexual abuse or neglect.

HISTORY: --Added Sept. 24, 1983, No. 4855, § 2, Sess. L. 1983, p. 175.

§ 2539. Failure to report

Any person, official or institution required by this subchapter to report a case of alleged child abuse, sexual abuse or neglect, or to perform any other act, who knowingly fails to do so, shall be guilty of a misdemeanor and shall be fined not more than \$ 500 or imprisoned not more than one year, or both.

HISTORY: --Added Sept. 24, 1983, No. 4855, § 2, Sess. L. 1983, p. 176.

§ 2540. Confidentiality of records

(a) In order to protect the rights of the child and his parent or guardian, all records concerning reports of child abuse, sexual abuse or neglect, made to the government of the Virgin Islands and all records generated as a result of such reports, shall be confidential, except as specifically provided by this subchapter. Any person who willfully permits, assists or encourages the release of information contained in such reports or records to persons or agencies not permitted by this section to have access, shall be guilty of a misdemeanor and shall be fined not more than \$ 500 or imprisoned not more than one year or both.

(b) No person, official or agency shall have access to such records unless for the express purpose of acting pursuant to this subchapter. Persons permitted access include:

(1) The Department of Social Welfare and its legal representative;

(2) The U.S. Virgin Islands Police Department (V.I.P.D.) when investigating a report of known or suspected child abuse, sexual abuse or neglect;

(3) A physician who has before him a child he reasonably suspects may have been abused or neglected;

(4) A person legally authorized to place a child in emergency temporary custody under section 2544 of this chapter, but only when such person has before him a child he reasonably suspects may have been abused or neglected and such person requires the information in the report or record to determine whether or not to place the child in emergency temporary custody;

(5) Any agency with legal responsibility or authorization to care for, treat or supervise a child who is the subject of a record, or other person responsible for the child's welfare;

(6) Any person who is the subject of a report and his legal representative, or if such person is a child, the child's guardian ad litem, parent, guardian or other person responsible for his welfare; and

(7) A court, upon finding that access to such record may be necessary for the determination of an issue before it; but such access shall be limited to in camera inspection, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue pending before it.

(8) Any person appointed to a case under a Court Appointed Special Advocates (CASA) Program, as provided under section 2555, of this chapter.

(c) A person given access to the names and other identifying information concerning the subjects of the report, except the subject of the report, shall not divulge or make public such identifying information.

HISTORY: --Added Sept. 24, 1983, No. 4855, § 2, Sess. L. 1983, p. 176; amended June 15, 1984, No. 4964, § 1(b), Sess. L. 1984, p. 177; Feb. 1, 2001, No. 6391, § 2(k)(1), Sess. L. 2000, p. 496.
