

LBD01824-06-1

1 ONE OF THE EDUCATION LAW AND WHO IS ENTITLED TO RESIDENTIAL CARE DUE TO
2 SUCH HANDICAPPING CONDITION.

3 (B) THE FOLLOWING CONDUCT, IF COMMITTED BY A PERSON DEFINED IN PARA-
4 GRAPH (A) OF THIS SUBDIVISION SHALL, FOR THE PURPOSES OF THIS SECTION,
5 CONSTITUTE "CHILD ABUSE" AND SHALL REQUIRE A REPORT:

6 (I) INTENTIONALLY OR RECKLESSLY INFLECTING PHYSICAL INJURY, SERIOUS
7 PHYSICAL INJURY OR DEATH, OR

8 (II) INTENTIONALLY OR RECKLESSLY ENGAGING IN CONDUCT WHICH CREATES A
9 SUBSTANTIAL RISK OF SUCH PHYSICAL INJURY, SERIOUS PHYSICAL INJURY OR
10 DEATH, OR

11 (III) COMMITTING OR ATTEMPTING TO COMMIT AGAINST A CHILD THE CRIME OF
12 DISSEMINATING INDECENT MATERIALS TO MINORS PURSUANT TO ARTICLE TWO
13 HUNDRED THIRTY-FIVE OF THE PENAL LAW, OR

14 (IV) ENGAGING IN ANY CONDUCT PROHIBITED BY ARTICLE ONE HUNDRED THIRTY
15 OR TWO HUNDRED SIXTY-THREE OF THE PENAL LAW.

16 (C) FOR THE PURPOSES OF THIS SECTION THE TERM "LAW ENFORCEMENT AUTHOR-
17 ITIES" SHALL MEAN A MUNICIPAL POLICE DEPARTMENT, SHERIFF'S DEPARTMENT,
18 THE DIVISION OF STATE POLICE OR ANY OFFICER THEREOF OR A DISTRICT ATTOR-
19 NEY OR ASSISTANT DISTRICT ATTORNEY. NOTWITHSTANDING ANY OTHER PROVISION
20 OF LAW, LAW ENFORCEMENT AUTHORITIES SHALL NOT INCLUDE ANY CHILD PROTEC-
21 TIVE SERVICE OR ANY SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN AS
22 SUCH TERMS ARE DEFINED IN SECTION FOUR HUNDRED TWENTY-THREE OF THIS
23 ARTICLE.

24 2. REPORTS OF SUSPECTED CHILD ABUSE SHALL BE MADE IMMEDIATELY BY TELE-
25 PHONE OR BY TELEPHONE FACSIMILE ON A FORM SUPPLIED BY THE COMMISSIONER
26 OF THE OFFICE OF CHILDREN AND FAMILY SERVICES TO AN APPROPRIATE LAW
27 ENFORCEMENT AGENCY. SUCH TELEPHONE REPORTS SHALL BE FOLLOWED BY A
28 REPORT IN WRITING WITHIN TWENTY-FOUR HOURS AFTER SUCH ORAL REPORT. THE
29 PROVISIONS OF ARTICLE TWENTY-THREE-B OF THE EDUCATION LAW SHALL APPLY
30 WHEN ALLEGATIONS OF ABUSE OR MALTREATMENT BY AN EMPLOYEE OR VOLUNTEER
31 UNDER SUCH ARTICLE ARE MADE IN AN EDUCATIONAL SETTING. NOTHING IN THIS
32 SUBDIVISION SHALL REQUIRE A PERSON OR OFFICIAL REQUIRED TO REPORT CASES
33 OF SUSPECTED CHILD ABUSE TO ADDITIONALLY NOTIFY THE STATEWIDE REGISTER
34 OF CHILD ABUSE AND MALTREATMENT UNLESS THE RELATIONSHIP OF THE VICTIM TO
35 THE ALLEGED PERPETRATOR IS IN DOUBT. NOTWITHSTANDING ANY OTHER
36 PROVISION OF LAW, LAW ENFORCEMENT AGENCY SHALL NOT INCLUDE ANY CHILD
37 PROTECTIVE SERVICE OR ANY SOCIETY FOR THE PREVENTION OF CRUELTY TO CHIL-
38 DREN AS SUCH TERMS ARE DEFINED IN SECTION FOUR HUNDRED TWENTY-THREE OF
39 THIS ARTICLE.

40 S 429-B. PENALTIES FOR FAILURE TO REPORT. 1. ANY PERSON REQUIRED BY
41 THIS TITLE TO REPORT A CASE OF SUSPECTED CHILD ABUSE WHO WILLFULLY FAILS
42 TO DO SO SHALL BE GUILTY OF A CLASS A MISDEMEANOR.

43 2. ANY PERSON REQUIRED BY THIS TITLE TO REPORT A CASE OF SUSPECTED
44 CHILD ABUSE WHO KNOWINGLY AND WILLFULLY FAILS TO DO SO SHALL BE CIVILLY
45 LIABLE FOR THE DAMAGES PROXIMATELY CAUSED BY SUCH FAILURE.

46 S 429-C. IMMUNITY FROM LIABILITY. 1. ANY PERSON WHO IN GOOD FAITH
47 MAKES A REPORT OF ALLEGATIONS OF CHILD ABUSE AS REQUIRED BY THIS TITLE,
48 INCLUDING THOSE WHO IN GOOD FAITH MAKE A REPORT TO THE WRONG RECIPIENT,
49 SHALL HAVE IMMUNITY FROM CRIMINAL LIABILITY WHICH MIGHT OTHERWISE RESULT
50 BY REASON OF SUCH ACTIONS.

51 2. ANY PERSON WHO REASONABLY AND IN GOOD FAITH MAKES A REPORT OF ALLE-
52 GATIONS OF CHILD ABUSE AS REQUIRED BY THIS TITLE, SHALL HAVE IMMUNITY
53 FROM CIVIL LIABILITY WHICH MIGHT OTHERWISE RESULT BY REASON OF SUCH
54 ACTIONS.

55 S 2. The commissioner of the office of children and family services
56 shall review the reporting form used to report suspected child abuse

1 pursuant to section 429-a of the social services law and, if necessary,
2 shall revise such form to make it appropriate for reporting to law
3 enforcement agencies.
4 S 3. This act shall take effect on the sixtieth day after it shall
5 have become a law.