

# STATUTORY COMPILATION

## REPORTING REQUIREMENTS FOR COMPETENT ADULT VICTIMS OF DOMESTIC VIOLENCE

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*Original summary by Teresa Scalzo, currently at the Department of Navy, Office of the Judge Advocate General  
Summary and Compilation updated by AEQUITAS: The Prosecutors' Resource on Violence Against Women*



**AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN**  
801 PENNSYLVANIA AVENUE NW, SUITE 375 | WASHINGTON, DC 20004  
P: (202) 558-0040 | F: (202) 393-1918  
[WWW.AEQUITASRESOURCE.ORG](http://WWW.AEQUITASRESOURCE.ORG)

*The following statutory compilation includes a summary of each state's reporting requirements for competent adult victims of domestic violence, a list of issues that may be encountered when interpreting domestic violence reporting laws, and the text of the state statutes relevant to reporting requirements for medical professionals who treat a victim of domestic violence who is a competent adult.*

## **SUMMARY OF LAWS RELEVANT TO THE MANDATORY REPORTING OF DOMESTIC VIOLENCE WHEN THE VICTIM IS A COMPETENT ADULT**

This document provides a summary of state laws relevant to the mandatory reporting of domestic violence or abuse by medical professionals to law enforcement when the victim is a competent adult<sup>1</sup>. The categories are:

- (1) laws that specifically require injuries caused by domestic violence or abuse to be reported;
- (2) laws that require injuries caused by non-accidental or intentional conduct to be reported;
- (3) laws that require injuries caused by criminal conduct to be reported; and
- (4) reporting requirements relating to other crimes or injuries that may impact victims of domestic violence or abuse.

The specific language of these statutes is included in the state laws set forth after this summary.

Many states require medical personnel to make a report to law enforcement and/or social services following their treatment of a child, elderly person or vulnerable adult who was the victim of a crime. These statutes, however, are not included in this summary. Rather, this summary focuses on the reporting requirements related to the medical treatment of competent adults who are the victims of domestic violence or abuse.<sup>2</sup> Additionally, this document focuses on statutes that require reports to law enforcement as opposed to statutes that require reports to other agencies for the purpose of collecting statistics. Please note that this document is intended for informational purposes only and does not constitute legal advice.

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<sup>1</sup> Each state defines domestic violence and domestic abuse differently. For the purposes of this document, state reporting requirements specific to domestic violence in that state as well as general crimes of violence that may qualify as domestic violence were examined. Please refer to state law to determine what constitutes domestic violence or abuse in that state.

<sup>2</sup> *Competent adult* is used to represent those adults who are viewed by the legal system as competent. Please refer to state law for definitions or interpretations of what constitutes a competent adult in that state.

## **LAWS THAT SPECIFICALLY REQUIRE INJURIES CAUSED BY DOMESTIC VIOLENCE TO BE REPORTED**

The law specifically requires medical personnel to report that they have treated a victim of domestic violence when the victim is a competent adult in the following states:

- California
  - Cal. Penal Code § 11160 (West 2010). Injuries by firearm; assaultive or abusive conduct; reporting duties by health facilities, clinics, physician's offices, or local or state public health department; contents of report.
- Colorado
  - Colo. Rev. Stats. Ann. § 12-36-135 (West 2010). Injuries to be reported--penalty for failure to report--immunity from liability.
- Kentucky
  - Ky. Rev. Stat. 209.030 (West 2010). Administrative regulations; reports of adult abuse, neglect, or exploitation; cabinet actions; status and disposition reports.
- Louisiana
  - La. Rev. Stat. Ann. § 2009.20 (West 2010). Duty to make complaints; penalty; immunity

## **LAWS THAT MANDATE THE REPORTING OF NON-ACCIDENTAL OR INTENTIONAL INJURIES**

In certain states, medical personnel are required to report injuries caused by non-accidental or intentional means. In these states, qualifying medical professionals will have to report that they treated a patient who suffered a non-accidental or intentional injury. It is difficult to imagine a situation in which injuries that are caused by domestic violence will not also be non-accidental or intentional; therefore, these statutes have the same impact as statutes that require incidents of domestic violence to be reported. Statutes that require the reporting of non-accidental or intentional injuries to law enforcement are in force in the following states:

- Arkansas
  - Ark. Code Ann. § 12-12-602 (West 2010). Reporting requirements.
- California
  - Cal. Penal Code § 11160 (West 2010). Injuries by firearm; assaultive or abusive conduct; reporting duties by health facilities, clinics, physician's offices, or local or state public health department; contents of report.
- Colorado
  - Colo. Rev. Stats. Ann. § 12-36-135 (West 2010). Injuries to be reported--penalty for failure to report--immunity from liability.
- Florida
  - Fla. Stat. Ann. § 790.24 (West 2010). Report of medical treatment of certain wounds; penalty for failure to report.
- Georgia
  - Ga. Code Ann. § 31-7-9 (West 2010). Reports by physicians and other personnel; immunity from liability.
- Hawai'i
  - Haw. Rev. Stat. § 453-14 (West 2010). Duty of physician, osteopathic physician, surgeon, hospital, clinic, etc., to report wounds.

- Oregon
  - Ore. Rev. Stat. 146.750 (West 2010). Reports by physicians.

### **LAWS THAT MANDATE THE REPORTING OF INJURIES CAUSED BY CRIMINAL CONDUCT**

In certain states, medical personnel are required to report injuries caused by criminal conduct. Domestic violence that results in injury will generally be a crime; therefore, these statutes will almost always require that injuries caused by domestic violence be reported. Statutes that require the reporting of injuries caused by criminal conduct are in force in the following states:

- Alaska
  - Alaska Stat. § 08.64.369 (West 2010). Health care professionals to report certain injuries.
- Arizona
  - Ariz. Rev. Stat. Ann. § 13-3806 (West 2010). Duty of physician or attendant upon treating certain wounds; classification
- Colorado
  - Colo. Rev. Stats. Ann. § 12-36-135 (West 2010). Injuries to be reported--penalty for failure to report--immunity from liability.
- District of Columbia
  - D.C. Code § 7-2601 (West 2010). Reports by physicians and institutions required.
- Idaho
  - Idaho Code Ann. § 39-1390 (West 2010). Reports to law enforcement agencies of certain types of injuries.
- Illinois
  - Ill. Comp. Stat. Ch. 20 § 2630/3.2 (West 2010). Notification of treatment of firearm injury and injury sustained in commission of or received from criminal offense.
- Iowa
  - Iowa Code Ann. 147.111 (West 2010). Report of treatment of wounds and other injuries.
- Nebraska
  - Neb. Rev. Stat. 28-902 (West 2010). Failure to report injury of violence; physician or surgeon; emergency room or first-aid station attendant; penalty.
- New Hampshire
  - N.H. Rev. Stat. 631:6 Failure to Report Injuries.
- North Carolina
  - N.C. Gen. Stat. Ann. § 90-21.20 (West 2010). Reporting by physicians and hospitals of wounds, injuries and illnesses.
- North Dakota
  - N.D. Cent. Code § 43-17-41 (West 2010). Duty of physicians and others to report injury—Penalty.
- Ohio
  - Ohio Rev. Code Ann. 2921.22 (West 2010). Reporting felony; medical personnel to report gunshot, stabbing, and burn injuries and suspected domestic violence.
- Oregon
  - Ore. Rev. Stat. 146.740 (West 2010). Reports by medical examiner.
- Pennsylvania

- 18 Pa. Cons. Stat. Ann. § 5106 (West 2010). Failure to report injuries by firearm or criminal act.
- Utah
  - Utah Code Ann. § 26-23a-2 (West 2010). Injury reporting requirements by health care provider--Contents of report.
- West Virginia
  - W. Va. Code Ann. § 61-2-27 (West 2010). Required reporting of gunshot and other wounds
- Wisconsin
  - Wis. Stat. Ann. 255.40 (West 2010). Reporting of wounds and burn injuries.

### **ADDITIONAL REPORTING STATUTES THAT MAY IMPACT COMPETENT ADULT VICTIMS OF DOMESTIC VIOLENCE**

Some states require that medical personnel report certain types of injuries to law enforcement. These injuries include injuries caused by firearms, stab wounds or knife wounds, injuries caused with a deadly weapon and burns, among others. If a victim of domestic violence presents with any of these injuries, medical personnel will be required to report the injury to law enforcement, unless there is an exception for domestic violence in that state. Relevant statutes include the following:

- ***Injuries caused by firearms***
  - Alaska
    - Alaska Stat. § 08.64.369 (West 2010). Health care professionals to report certain injuries.
  - Arizona
    - Ariz. Rev. Stat. Ann. § 13-3806 (West 2010). Duty of physician or attendant upon treating certain wounds; classification
  - Arkansas
    - Ark. Code Ann. § 12-12-602 (West 2010). Reporting requirements.
  - California
    - Cal. Penal Code § 11160 (West 2010). Injuries by firearm; assaultive or abusive conduct; reporting duties by health facilities, clinics, physician's offices, or local or state public health department; contents of report.
  - Colorado
    - Colo. Rev. Stats. Ann. § 12-36-135 (West 2010). Injuries to be reported--penalty for failure to report--immunity from liability.
  - Connecticut
    - Conn. Gen. Stat. Ann. § 19a-490f (West 2010). Requirements for reports of treatment of wounds from firearms.
  - Delaware
    - Del. Code Ann. TI. 24 § 1762 (West 2010). Reports of treatment of certain wounds, injuries, poisonings, or other conditions; failure to report; penalty.
  - District of Columbia
    - D.C. Code § 7-2601 (West 2010). Reports by physicians and institutions required.
  - Florida
    - Fla. Stat. Ann. § 790.24 (West 2010). Report of medical treatment of certain wounds; penalty for failure to report.

- Hawai'i
  - Haw. Rev. Stat. § 453-14 (West 2010). Duty of physician, osteopathic physician, surgeon, hospital, clinic, etc., to report wounds.
- Idaho
  - Idaho Code Ann. § 39-1390 (West 2010). Reports to law enforcement agencies of certain types of injuries.
- Illinois
  - Ill. Comp. Stat. Ch. 20 § 2630/3.2 (West 2010). Notification of treatment of firearm injury and injury sustained in commission of or received from criminal offense.
- Indiana
  - Ind. Code § 35-47-7-1 (West 2010). Persons required to report wounds.
- Iowa
  - Iowa Code Ann. 147.111 (West 2010). Report of treatment of wounds and other injuries.
- Kansas
  - Kan. Stat. Ann. 21-4213 (West 2010). Unlawful failure to report a wound.
- Louisiana
  - La. Rev. Stat. Ann. § 14:403.5 (West 2010). Gunshot wounds; mandatory reporting.
- Maine
  - Me. Rev. Stat. Ann. tit. 17-A § 512 (West 2010). Failure to report treatment of a gunshot wound.
- Maryland
  - Md. Code Ann., Health – Gen., § 20-703 (West 2010). Injury reports involving gunshot wounds
- Massachusetts
  - Mass. Gen. Laws Ann. 112 § 12A (West 2010). Report of treatment of wounds, burns and other injuries; penalty
- Michigan
  - Mich. Comp. Laws Ann. 750.411 (West 2010). Injuries by means of deadly weapons; duty to report; violation, misdemeanor; immunity.
- Minnesota
  - Minn. Stat. Ann. 626.52 (West 2010). Reporting of suspicious wounds by health professionals.
- Mississippi
  - Miss. Code Ann. § 45-9-31 (West 2010). Duty to report.
- Missouri
  - Mo. Ann. Stat. 578.350 (West 2010). Gunshot wounds--physicians, nurses, therapists, duty to report, content--violation, penalty.
- Montana
  - Mont. Code Ann. 37-2-302 (West 2010). Gunshot or stab wounds to be reported.
- Nevada
  - Nev. Rev. Stat. 629.041. Provider of health care to report persons having certain injuries.
- New Hampshire
  - N.H. Rev. Stat. 631:6 Failure to Report Injuries.

- New Jersey
  - N.J. Stat. Ann. 2C:58-8 (West 2010). Certain wounds and injuries to be reported.
- New York
  - N.Y. Penal § 265.25 (West 2010). Certain wounds to be reported.
- North Carolina
  - N.C. Gen. Stat. Ann. § 90-21.20 (West 2010). Reporting by physicians and hospitals of wounds, injuries and illnesses.
- North Dakota
  - N.D. Cent. Code § 43-17-41 (West 2010). Duty of physicians and others to report injury—Penalty.
- Ohio
  - Ohio Rev. Code Ann. 2921.22 (West 2010). Reporting felony; medical personnel to report gunshot, stabbing, and burn injuries and suspected domestic violence.
- Oregon
  - Ore. Rev. Stat. 146.730 (West 2010). Investigation.
  - Ore. Rev. Stat. 146.740 (West 2010). Reports by medical examiner.
  - Ore. Rev. Stat. 146.750 (West 2010). Reports by physicians.
- Rhode Island
  - R.I. Gen. Laws § 11-47-48 (West 2010). Report of gunshot wounds.
- South Carolina
  - S.C. Code Ann. § 16-3-1072 (West 2010). Reporting medical treatment for gunshot wound; immunity; physician-patient privilege abrogated; penalties.
- South Dakota
  - S.D. Codified Laws 23-13-10 (West 2010). Report to sheriff of gunshot wounds treated.
- Tennessee
  - Tenn. Code Ann. § 38-1-101 (West 2010). Health care providers; certain injuries; reports.
- Texas
  - Texas Health & Safety Code Ann. § 161.041 (West 2010). Mandatory Reporting of Gunshot Wounds.
- Utah
  - Utah Code Ann. § 26-23a-2 (West 2010). Injury reporting requirements by health care provider--Contents of report.
- Vermont
  - Vt. Stat. Ann. T. 13 § 4012 (West 2010). Reporting treatment of firearm wounds.
- Virgin Islands
  - V.I. Code Ann. tit. 23 § 2478 (West 2007). Report of treatment of wounded persons.
- Virginia
  - Va. Code Ann. § 54.1-2967 (West 2010). Physicians and others rendering medical aid to report certain wounds.
- Washington
  - Wash. Rev. Code 70.41.440. Duty to report violent injuries--Preservation of evidence--Immunity--Privilege

- West Virginia
  - W. Va. Code Ann. § 61-2-27 (West 2010). Required reporting of gunshot and other wounds
- Wisconsin
  - Wis. Stat. Ann. 255.40 (West 2010). Reporting of wounds and burn injuries.
- ***Stab wounds or non-accidental wounds caused by a knife or sharp pointed instrument***
  - Alaska
    - Alaska Stat. § 08.64.369 (West 2010). Health care professionals to report certain injuries.
  - Arizona
    - Ariz. Rev. Stat. Ann. § 13-3806 (West 2010). Duty of physician or attendant upon treating certain wounds; classification
  - Arkansas
    - Ark. Code Ann. § 12-12-602 (West 2010). Reporting requirements.
  - Colorado
    - Colo. Rev. Stats. Ann. § 12-36-135 (West 2010). Injuries to be reported--penalty for failure to report--immunity from liability.
  - Delaware
    - Del. Code Ann. TI. 24 § 1762 (West 2010). Reports of treatment of certain wounds, injuries, poisonings, or other conditions; failure to report; penalty.
  - Hawai'i
    - Haw. Rev. Stat. § 453-14 (West 2010). Duty of physician, osteopathic physician, surgeon, hospital, clinic, etc., to report wounds.
  - Indiana
    - Ind. Code § 35-47-7-1 (West 2010). Persons required to report wounds.
  - Iowa
    - Iowa Code Ann. 147.111 (West 2010). Report of treatment of wounds and other injuries.
  - Kansas
    - Kan. Stat. Ann. 21-4213 (West 2010). Unlawful failure to report a wound.
  - Michigan
    - Mich. Comp. Laws Ann. 750.411 (West 2010). Injuries by means of deadly weapons; duty to report; violation, misdemeanor; immunity.
  - Mississippi
    - Miss. Code Ann. § 45-9-31 (West 2010). Duty to report.
  - Montana
    - Mont. Code Ann. 37-2-302 (West 2010). Gunshot or stab wounds to be reported.
  - Nevada
    - Nev. Rev. Stat. 629.041. Provider of health care to report persons having certain injuries.
  - New York
    - N.Y. Penal § 265.25 (West 2010). Certain wounds to be reported.
  - North Carolina

- N.C. Gen. Stat. Ann. § 90-21.20 (West 2010). Reporting by physicians and hospitals of wounds, injuries and illnesses.
  - North Dakota
    - N.D. Cent. Code § 43-17-41 (West 2010). Duty of physicians and others to report injury—Penalty.
  - Ohio
    - Ohio Rev. Code Ann. 2921.22 (West 2010). Reporting felony; medical personnel to report gunshot, stabbing, and burn injuries and suspected domestic violence.
  - Oregon
    - Ore. Rev. Stat. 146.730 (West 2010). Investigation.
    - Ore. Rev. Stat. 146.740 (West 2010). Reports by medical examiner.
    - Ore. Rev. Stat. 146.750 (West 2010). Reports by physicians.
  - Tennessee
    - Tenn. Code Ann. § 38-1-101 (West 2010). Health care providers; certain injuries; reports.
  - Utah
    - Utah Code Ann. § 26-23a-2 (West 2010). Injury reporting requirements by health care provider--Contents of report.
  - Virginia
    - Va. Code Ann. § 54.1-2967 (West 2010). Physicians and others rendering medical aid to report certain wounds.
  - Washington
    - Wash. Rev. Code 70.41.440. Duty to report violent injuries--Preservation of evidence--Immunity--Privilege
  - West Virginia
    - W. Va. Code Ann. § 61-2-27 (West 2010). Required reporting of gunshot and other wounds
- ***Injuries caused by a weapon***
  - District of Columbia
    - D.C. Code § 7-2601 (West 2010). Reports by physicians and institutions required.
  - Maryland
    - Md. Code, Health – Gen., § 20-701 (West 2010). Injury reports requirements
  - Massachusetts
    - Mass. Gen. Laws Ann. 112 § 12A (West 2010). Report of treatment of wounds, burns and other injuries; penalty
  - Michigan
    - Mich. Comp. Laws Ann. 750.411 (West 2010). Injuries by means of deadly weapons; duty to report; violation, misdemeanor; immunity.
  - Minnesota
    - Minn. Stat. Ann. 626.52 (West 2010). Reporting of suspicious wounds by health professionals.
  - New Jersey

- N.J. Stat. Ann. 2C:58-8 (West 2010). Certain wounds and injuries to be reported.
  - Pennsylvania
    - 18 Pa. Cons. Stat. Ann. § 5106 (West 2010). Failure to report injuries by firearm or criminal act.
  - Tennessee
    - Tenn. Code Ann. § 38-1-101 (West 2010). Health care providers; certain injuries; reports.
  - Utah
    - Utah Code Ann. § 26-23a-2 (West 2010). Injury reporting requirements by health care provider--Contents of report.
  - Virginia
    - Va. Code Ann. § 54.1-2967 (West 2010). Physicians and others rendering medical aid to report certain wounds.
- **Burn injuries**
  - Alaska
    - Alaska Stat. § 08.64.369 (West 2010). Health care professionals to report certain injuries.
  - Hawai'i
    - Haw. Rev. Stat. § 453-14 (West 2010). Duty of physician, osteopathic physician, surgeon, hospital, clinic, etc., to report wounds.
  - Indiana
    - Ind. Code 35-47-7-3 (West 2010). Burn injury reporting.
  - Louisiana
    - LA. Rev. Stat. Ann. § 14:403.4 (West 2010). Burn injuries and wounds; reports; registry; immunity; penalties.
  - Massachusetts
    - Mass. Gen. Laws Ann. 112 § 12A (West 2010). Report of treatment of wounds, burns and other injuries; penalty
  - Minnesota
    - Minn. Stat. Ann. 626.52 (West 2010). Reporting of suspicious wounds by health professionals.
  - Nevada
    - Nev. Rev. Stat. 629.045. Provider of health care to report persons having certain burns.
  - New Jersey
    - N.J. Stat. Ann. 2C:58-8 (West 2010). Certain wounds and injuries to be reported.
  - New York
    - N.Y. Penal. § 265.26 (West 2010). Burn injury and wounds to be reported.
  - Ohio
    - Ohio Rev. Code Ann. 2921.22 (West 2010). Reporting felony; medical personnel to report gunshot, stabbing, and burn injuries and suspected domestic violence.
  - Utah

- Utah Code Ann. § 26-23a-2 (West 2010). Injury reporting requirements by health care provider--Contents of report.
  - Wisconsin
    - Wis. Stat. Ann. 255.40 (West 2010). Reporting of wounds and burn injuries.
  
- ***Suspicious wounds***
  - Hawai'i
    - Haw. Rev. Stat. § 453-14 (West 2010). Duty of physician, osteopathic physician, surgeon, hospital, clinic, etc., to report wounds.
  - Minnesota
    - Minn. Stat. Ann. 626.52 (West 2010). Reporting of suspicious wounds by health professionals.
  - Oregon
    - Ore. Rev. Stat. 146.730 (West 2010). Investigation

## **POSSIBLE ISSUES IN INTERPRETING LAWS MANDATING THE REPORTING OF INJURIES CAUSED BY DOMESTIC VIOLENCE OR ABUSE**

1. What are the state's reporting laws?
  - With respect to domestic violence or abuse?
  - With respect to other crimes?
  - Does the law change if the crime also constitutes rape or sexual assault?
2. Who is the medical treatment provider? The statutes listed generally described the duty of various medical personnel to report. In certain states, if a victim goes to a community based forensic examiner program as opposed to a hospital, the provider may not be required to report the rape or other injury. In addition, one should consider whether first responders who provide medical treatment qualify as medical treatment providers.
3. Who is required to report and to whom are they required to report?
4. What information does the report have to contain? What is the procedure for reporting? What is the format of the report?
5. Who is paying for the examination? What happens in states where the examination will only be paid for if the victim reports the examination to law enforcement? What are the state's laws with respect to the denial of medical treatment to a patient if the patient chooses only to receive medical treatment and not a forensic examination?
6. What is the penalty for failure to report? States have different penalties for the failure of medical personnel to comply with reporting laws. In some states, the consequences may be criminal, while in other states, the consequences are civil.

## REPORTING REQUIREMENTS FOR COMPETENT ADULT VICTIMS OF DOMESTIC VIOLENCE

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## ALABAMA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence?*

*Possibly: Ala. Code § 38-9-8 refers to "protected" persons, so may only be designed to protect vulnerable adults and/or children.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **ALA. CODE § 38-9-8 (WEST 2010). REPORTS BY PHYSICIANS, ETC., OF PHYSICAL, SEXUAL, OR EMOTIONAL ABUSE, NEGLECT, OR EXPLOITATION -- REQUIRED; CONTENTS; INVESTIGATION.\***

(a) All physicians and other practitioners of the healing arts or any caregiver having reasonable cause to believe that any protected person has been subjected to physical abuse, neglect, exploitation, sexual abuse, or emotional abuse shall report or cause a report to be made as follows:

(1) An oral report, by telephone or otherwise, shall be made immediately, followed by a written report, to the county department of human resources or to the chief of police of the city or city and county, or to the sheriff of the county if the observation is made in an unincorporated territory, except that reports of a nursing home employee who abuses, neglects, or misappropriates the property of a nursing home resident shall be made to the Department of Public Health. The requirements to report suspicion of suspected abuse, neglect, or misappropriation of property of a nursing home resident by an employee of a nursing home shall be deemed satisfied if the report is made in accordance with the rules of the State Board of Health.

(2) Within seven days following an oral report, an investigation of any alleged abuse, neglect, exploitation, sexual abuse, or emotional abuse shall be made by the county department of human resources or the law enforcement official, whichever receives the report, and a written report prepared which includes the following:

- a. Name, age, and address of the person.
- b. Nature and extent of injury suffered by the person.
- c. Any other facts or circumstances known to the reporter which may aid in the determination of appropriate action.

(b) All reports prepared by a law enforcement official shall be forwarded to the county department of human resources within 24 hours.

(c) The county department of human resources shall not be required to investigate any report of abuse, neglect, exploitation, sexual abuse, or emotional abuse that occurs in any facility owned and operated by the Alabama Department of Corrections or the Alabama Department of Mental Health.

(d) Notwithstanding the foregoing, the Department of Public Health shall investigate all reports that a nursing home employee has abused or neglected a nursing home resident, or misappropriated the property of a nursing home resident, in accordance with the rules of the State Board of Health and the federal regulations and guidelines of the Medicaid and Medicare programs. The Department of Public Health shall investigate the complaints in accordance with the procedures and time frames established by the agency. A county department of human resources shall not be required to investigate the complaints.

## ALASKA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? Yes.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence?*

*Health care workers are required to report certain injuries including bullet wounds, gunshot wounds, injuries apparently caused by the discharge of a firearm, non-accidental injuries caused by knives or other sharp pointed instruments, and certain burns and injuries likely to cause death.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **ALASKA STAT. § 08.64.369 (WEST 2010). HEALTH CARE PROFESSIONALS TO REPORT CERTAIN INJURIES.**

(a) A health care professional who initially treats or attends to a person with an injury described in (b) of this section shall make certain that an oral report of the injury is made promptly to the Department of Public Safety, a local law enforcement agency, or a village public safety officer. The health care professional shall make certain that a written report of an injury described in (b)(1) or (2) of this section is submitted to the Department of Public Safety within three working days after the person is treated. The report shall be on a form provided by the Department of Public Safety.

(b) The following injuries shall be reported under (a) of this section:

(1) second or third degree burns to five percent or more of a patient's body;

(2) a burn to a patient's upper respiratory tract or laryngeal edema due to the inhalation of super-heated air;

(3) a bullet wound, powder burn, or other injury apparently caused by the discharge of a firearm;

(4) an injury apparently caused by a knife, axe, or other sharp or pointed instrument, unless the injury was clearly accidental; and

(5) an injury that is likely to cause the death of the patient, unless the injury was clearly accidental.

(c) A person who, in good faith, makes a report under this section, or who participates in judicial proceedings related to a report under this section, is immune from any civil or

criminal liability that might otherwise be incurred as a result of making such a report or participating in the judicial proceedings.

(d) In this section, “health care professional” includes an emergency medical technician certified under AS 18.08, health aide, physician, nurse, mobile intensive care paramedic, and physician assistant, but does not include a practitioner of religious healing.

## ARIZONA

***Specific requirement to report domestic violence?*** No.

***Requirement to report non-accidental or intentional injuries?*** No.

***Requirement to report injuries caused by criminal conduct?*** Yes. Domestic violence that results in injury will generally be a crime; therefore, this statute will generally require domestic violence to be reported.

***Additional statutes that may impact competent adult victims of domestic violence?*** Physicians, surgeons, nurses and hospital attendants must report gunshot wounds, knife wounds, and material injuries resulting from fights, brawls, robberies or other illegal or unlawful acts.

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **ARIZ. REV. STAT. ANN. § 13-3806 (WEST 2010). DUTY OF PHYSICIAN OR ATTENDANT UPON TREATING CERTAIN WOUNDS; CLASSIFICATION**

A. A physician, surgeon, nurse or hospital attendant called upon to treat any person for gunshot wounds, knife wounds or other material injury which may have resulted from a fight, brawl, robbery or other illegal or unlawful act, shall immediately notify the chief of police or the city marshal, if in an incorporated city or town, or the sheriff, or the nearest police officer, of the circumstances, together with the name and description of the patient, the character of the wound and other facts which may be of assistance to the police authorities in the event the condition of the patient may be due to any illegal transaction or circumstances.

B. Any violation of the provisions of this section by a physician, surgeon, nurse or hospital attendant, is a class 3 misdemeanor.

## ARKANSAS

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? Yes.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report knife and gunshot wounds when the wounds appear to have been intentionally inflicted.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **ARK. CODE ANN. § 12-12-602 (WEST 2010). REPORTING REQUIREMENTS.**

(a) All physicians, surgeons, hospitals, druggists, or other persons or entities that render first aid treatment shall report to the office of the county sheriff of the county all cases of knife or gunshot wounds treated by them or received in the hospital when the wounds appear to have been intentionally inflicted.

(b) If within a city of the first class, a report to the chief of police or a regular member of the police force shall be equivalent to a report to the office of the county sheriff, and a proper report to the chief of police, regular member of the police force, or office of the county sheriff shall be compliance with the requirements of this subchapter.

## CALIFORNIA

***Specific requirement to report domestic violence? Yes.***

***Requirement to report non-accidental or intentional injuries? Yes. It is mandatory to report injuries caused by assaultive or abusive conduct.***

***Requirement to report injuries caused by criminal conduct? Yes. It is mandatory to report injuries caused by assaultive or abusive conduct.***

***Additional statutes that may impact competent adult victims of domestic violence? Mandatory reporting is required for injuries caused by firearms.***

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### STATUTES THAT MANDATE DOMESTIC VIOLENCE REPORTING

#### **CAL. PENAL CODE § 11160 (WEST 2010). INJURIES BY FIREARM; ASSAULTIVE OR ABUSIVE CONDUCT; REPORTING DUTIES BY HEALTH FACILITIES, CLINICS, PHYSICIAN'S OFFICES, OR LOCAL OR STATE PUBLIC HEALTH DEPARTMENT; CONTENTS OF REPORT.**

(a) Any health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient whom he or she knows or reasonably suspects is a person described as follows, shall immediately make a report in accordance with subdivision (b):

(1) Any person suffering from any wound or other physical injury inflicted by his or her own act or inflicted by another where the injury is by means of a firearm.

(2) Any person suffering from any wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct.

(b) Any health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department shall make a report regarding persons described in subdivision (a) to a local law enforcement agency as follows:

(1) A report by telephone shall be made immediately or as soon as practically possible.

(2) A written report shall be prepared on the standard form developed in compliance with paragraph (4) of this subdivision, and Section 11160.2, and adopted by the agency or agencies designated by the Director of Finance pursuant to Section 13820, or on a form developed and adopted by another state agency that otherwise fulfills the requirements of the standard form. The completed form shall

be sent to a local law enforcement agency within two working days of receiving the information regarding the person.

(3) A local law enforcement agency shall be notified and a written report shall be prepared and sent pursuant to paragraphs (1) and (2) even if the person who suffered the wound, other injury, or assaultive or abusive conduct has expired, regardless of whether or not the wound, other injury, or assaultive or abusive conduct was a factor contributing to the death, and even if the evidence of the conduct of the perpetrator of the wound, other injury, or assaultive or abusive conduct was discovered during an autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the injured person, if known.

(B) The injured person's whereabouts.

(C) The character and extent of the person's injuries.

(D) The identity of any person the injured person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.

(c) For the purposes of this section, "injury" shall not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(d) For the purposes of this section, "assaultive or abusive conduct" shall include any of the following offenses:

(1) Murder, in violation of Section 187.

(2) Manslaughter, in violation of Section 192 or 192.5.

(3) Mayhem, in violation of Section 203.

(4) Aggravated mayhem, in violation of Section 205.

(5) Torture, in violation of Section 206.

(6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220.

(7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222.

- (8) Battery, in violation of Section 242.
- (9) Sexual battery, in violation of Section 243.4.
- (10) Incest, in violation of Section 285.
- (11) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244.
- (12) Assault with a stun gun or taser, in violation of Section 244.5.
- (13) Assault with a deadly weapon, firearm, assault weapon, or machinegun, or by means likely to produce great bodily injury, in violation of Section 245.
- (14) Rape, in violation of Section 261.
- (15) Spousal rape, in violation of Section 262.
- (16) Procuring any female to have sex with another man, in violation of Section 266, 266a, 266b, or 266c.
- (17) Child abuse or endangerment, in violation of Section 273a or 273d.
- (18) Abuse of spouse or cohabitant, in violation of Section 273.5.
- (19) Sodomy, in violation of Section 286.
- (20) Lewd and lascivious acts with a child, in violation of Section 288.
- (21) Oral copulation, in violation of Section 288a.
- (22) Sexual penetration, in violation of Section 289.
- (23) Elder abuse, in violation of Section 368.
- (24) An attempt to commit any crime specified in paragraphs (1) to (23), inclusive.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence that is required to be reported pursuant to this section, and when there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make a report by telephone and a single written report, as required by subdivision (b). The written report shall be 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.

(f) The reporting duties under this section are individual, except as provided in subdivision (e).

(g) No supervisor or administrator shall impede or inhibit the reporting duties required under this section and no person making a report pursuant to this section shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, except that these procedures shall not be inconsistent with this article. The internal procedures shall not require any employee required to make a report under this article to disclose his or her identity to the employer.

(h) For the purposes of this section, it is the Legislature's intent to avoid duplication of information.

### **CAL. PENAL CODE § 11161 (WEST 2010). PHYSICIANS OR SURGEONS; REPORTING DUTIES.**

Notwithstanding Section 11160, the following shall apply to every physician or surgeon who has under his or her charge or care any person described in subdivision (a) of Section 11160:

(a) The physician or surgeon shall make a report in accordance with subdivision (b) of Section 11160 to a local law enforcement agency.

(b) It is recommended that any medical records of a person about whom the physician or surgeon is required to report pursuant to subdivision (a) include the following:

(1) Any comments by the injured person regarding past domestic violence, as defined in Section 13700, or regarding the name of any person suspected of inflicting the wound, other physical injury, or assaultive or abusive conduct upon the person.

(2) A map of the injured person's body showing and identifying injuries and bruises at the time of the health care.

(3) A copy of the law enforcement reporting form.

(c) It is recommended that the physician or surgeon refer the person to local domestic violence services if the person is suffering or suspected of suffering from domestic violence, as defined in Section 13700.

## COLORADO

***Specific requirement to report domestic violence?*** *Yes. It is mandatory to report any injury believed to be caused by criminal conduct, including domestic violence as defined in the statute.*

***Requirement to report non-accidental or intentional injuries?*** *Yes.*

***Requirement to report injuries caused by criminal conduct?*** *Yes. There is a mandatory requirement to report "injury that the licensee has reason to believe involves a criminal act, including injuries resulting from domestic violence."*

***Additional statutes that may impact competent adult victims of domestic violence?***

*Every licensee has a duty to report gunshot wounds, injuries caused by knives or sharp pointed instruments that the licensee believes were intentionally inflicted.*

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### STATUTES THAT MANDATE DOMESTIC VIOLENCE REPORTING

#### **COLO. REV. STATS. ANN. § 12-36-135 (WEST 2010). INJURIES TO BE REPORTED--PENALTY FOR FAILURE TO REPORT--IMMUNITY FROM LIABILITY.**

(1)(a) It shall be the duty of every licensee who attends or treats a bullet wound, a gunshot wound, a powder burn, or any other injury arising from the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument that the licensee believes to have been intentionally inflicted upon a person, or an injury arising from a dog bite that the licensee believes was inflicted upon a person by a dangerous dog, as defined in section 18-9-204.5(2)(b), C.R.S., or any other injury that the licensee has reason to believe involves a criminal act, including injuries resulting from domestic violence, to report the injury at once to the police of the city, town, or city and county or the sheriff of the county in which the licensee is located. Any licensee who fails to make a report as required by this section commits a class 2 petty offense, as defined by section 18-1.3-503, C.R.S., and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

(b) When a licensee performs a forensic medical examination that includes the collection of evidence at the request of a victim of sexual assault, not in connection with a referring or requesting law enforcement agency, and the licensee's employing medical facility knows where the crime occurred, the facility shall contact the law enforcement agency in whose jurisdiction the crime occurred regarding preservation of the evidence. If the medical facility does not know where the crime occurred, the facility shall contact its local law enforcement agency regarding preservation of the evidence.

(1.5) As used in subsection (1) of this section, unless the context otherwise requires:

(a) “Domestic violence” means an act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Domestic violence also includes any other crime against a person or any municipal ordinance violation against a person when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

(b) “Intimate relationship” means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

(2) Any licensee who, in good faith, makes a report pursuant to subsection (1) of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of such report, and shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(3) Any licensee who makes a report pursuant to subsection (1) of this section shall not be subject to the physician-patient relationship described in section 13-90-107(1)(d), C.R.S., as to the medical examination and diagnosis. Such licensee may be examined as a witness, but not as to any statements made by the patient that are the subject matter of section 13-90-107(1)(d), C.R.S.

## CONNECTICUT

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report bullet wounds, gunshot wounds, and wounds arising from the discharge of a firearm.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **CONN. GEN. STAT. ANN. § 19A-490F (WEST 2010). REQUIREMENTS FOR REPORTS OF TREATMENT OF WOUNDS FROM FIREARMS.**

Each hospital, outpatient surgical facility and outpatient clinic shall report or cause a report to be made to the local police department or the state police of each person treated for a bullet wound, gunshot wound or any injury arising from the discharge of a firearm. Such report shall be made as soon as practicable after the treatment is rendered and shall contain the name and address of the injured person, if known, the nature and extent of the injury and the circumstances under which the treatment was rendered.

## DELAWARE

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report stab wounds, gunshot wounds, bullet wounds, powder burns, injuries caused by the discharge of a firearm and poisonings by other than accidental means.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **DEL. CODE ANN. TIT. 24 § 1762 (WEST 2010). REPORTS OF TREATMENT OF CERTAIN WOUNDS, INJURIES, POISONINGS, OR OTHER CONDITIONS; FAILURE TO REPORT; PENALTY.**

(a) Every person certified to practice medicine who attends to or treats a stab wound; poisoning by other than accidental means; or a bullet wound, gunshot wound, powder burn, or other injury or condition arising from or caused by the discharge of a gun, pistol, or other firearm, or when such injury or condition is treated in a hospital, sanitarium, or other institution, the person, manager, superintendent, or other individual in charge shall report the injury or condition as soon as possible to the appropriate police authority where the attending or treating person was located at the time of treatment or where the hospital, sanitarium, or institution is located. This section does not apply to wounds, burns, poisonings, or injuries or conditions received by a member of the armed forces of the United States or the State while engaged in the actual performance of duty. A person who fails to make a report required by this section shall be fined not less than \$100 nor more than \$2,500.

(b) A person certified to practice medicine or other individual who makes a report pursuant to this section is immune from liability for the report, provided that the person or other individual acted in good faith and without gross or wanton negligence.

## DISTRICT OF COLUMBIA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? Yes. It is mandatory to report injuries that were sustained in the commission of a crime.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report injuries inflicted by a firearm or dangerous weapon in the commission of a crime.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **D.C. CODE § 7-2601 (WEST 2010). REPORTS BY PHYSICIANS AND INSTITUTIONS REQUIRED.**

Any physician in the District of Columbia, including persons licensed under Chapter 12 of Title 3, having reasonable cause to believe that a person brought to him or coming before him for examination, care, or treatment has suffered injury caused by a firearm, whether self-inflicted, accidental, or occurring during the commission of a crime, or has suffered injury caused by any dangerous weapon in the commission of a crime, shall report or cause reports to be made in accordance with this chapter; provided, that when a physician in the performance of service as a member of the staff of a hospital or similar institution attends any person so injured, he shall notify the person in charge of the hospital or institution or his designated agent who shall report or cause reports to be made in accordance with this chapter.

#### **D.C. CODE § 7-2602 (WEST 2010) NATURE AND CONTENTS OF REPORTS.**

An oral report shall be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing, to the Metropolitan Police Department of the District of Columbia. Such reports shall contain, if readily available, the name, address, and age of the injured person, and shall also contain the nature and extent of the person's injuries, and any other information which the physician or other person required to make the report believes might be helpful in establishing the cause of the injuries and the identity of the person who caused the injuries.

## FLORIDA

***Specific requirement to report domestic violence?*** No.

***Requirement to report non-accidental or intentional injuries?*** It is mandatory to report life-threatening injuries indicating an act of violence.

***Requirement to report injuries caused by criminal conduct?*** No.

***Additional statutes that may impact competent adult victims of domestic violence?*** It is mandatory to report gunshot wounds and life-threatening injuries indicating an act of violence. Statute requires continuing education training on domestic violence for individuals licensed in medicine, osteopathic medicine, nursing, dentistry, midwifery, psychology, counseling or psychotherapy to recognize victims and perpetrators of domestic violence in their practices.

*It is mandatory for police officers to make a report if called to the scene of an incident of domestic violence, although Florida public policy discourages arrest and charges of both parties against each other.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **FLA. STAT. ANN. § 790.24 (WEST 2010). REPORT OF MEDICAL TREATMENT OF CERTAIN WOUNDS; PENALTY FOR FAILURE TO REPORT.**

Any physician, nurse, or employee thereof and any employee of a hospital, sanitarium, clinic, or nursing home knowingly treating any person suffering from a gunshot wound or life-threatening injury indicating an act of violence, or receiving a request for such treatment, shall report the same immediately to the sheriff's department of the county in which said treatment is administered or request therefor received. This section does not affect any requirement that a person has to report abuse pursuant to chapter 39 or chapter 415. Any such person willfully failing to report such treatment or request therefor is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

#### **FLA. STAT. ANN. § 456.031 (WEST 2010). REQUIREMENT FOR INSTRUCTION ON DOMESTIC VIOLENCE.**

(1)(a) The appropriate board shall require each person licensed or certified under chapter 458, chapter 459, part I of chapter 464, chapter 466, chapter 467, chapter 490, or chapter 491 to complete a 2-hour continuing education course, approved by the board, on domestic violence, as defined in s. 741.28, as part of every third biennial relicensure or recertification. The course shall consist of information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or

how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

(b) Each such licensee or certificate holder shall submit confirmation of having completed such course, on a form provided by the board, when submitting fees for every third biennial renewal.

(c) The board may approve additional equivalent courses that may be used to satisfy the requirements of paragraph (a). Each licensing board that requires a licensee to complete an educational course pursuant to this subsection may include the hour required for completion of the course in the total hours of continuing education required by law for such profession unless the continuing education requirements for such profession consist of fewer than 30 hours biennially.

(d) Any person holding two or more licenses subject to the provisions of this subsection shall be permitted to show proof of having taken one board-approved course on domestic violence, for purposes of relicensure or recertification for additional licenses.

(e) Failure to comply with the requirements of this subsection shall constitute grounds for disciplinary action under each respective practice act and under s. 456.072(1)(k). In addition to discipline by the board, the licensee shall be required to complete such course.

(2) Each board may adopt rules to carry out the provisions of this section.

**FLA. STAT. ANN. 741.29 (WEST 2010). DOMESTIC VIOLENCE; INVESTIGATION OF INCIDENTS; NOTICE TO VICTIMS OF LEGAL RIGHTS AND REMEDIES; REPORTING.**

(1) Any law enforcement officer who investigates an alleged incident of domestic violence shall assist the victim to obtain medical treatment if such is required as a result of the alleged incident to which the officer responds. Any law enforcement officer who investigates an alleged incident of domestic violence shall advise the victim of such violence that there is a domestic violence center from which the victim may receive services. The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available on a standard form developed and distributed by the department. As necessary, the department shall revise the Legal Rights and Remedies Notice to Victims to include a general summary of s. 741.30 using simple English as well as Spanish, and shall distribute the notice as a model form to be used by all law enforcement agencies throughout the state. The notice shall include:

(a) The resource listing, including telephone number, for the area domestic violence center designated by the Department of Children and Family Services; and

(b) A copy of the following statement: "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from domestic violence which may include, but need not be limited to, provisions which restrain the abuser from further acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business, or place of employment; award you custody of your minor child or children; and direct the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

(2) When a law enforcement officer investigates an allegation that an incident of domestic violence has occurred, the officer shall handle the incident pursuant to the arrest policy provided in s. 901.15(7), and as developed in accordance with subsections (3), (4), and (5). Whether or not an arrest is made, the officer shall make a written police report that is complete and clearly indicates the alleged offense was an incident of domestic violence. Such report shall be given to the officer's supervisor and filed with the law enforcement agency in a manner that will permit data on domestic violence cases to be compiled. Such report must include:

(a) A description of physical injuries observed, if any.

(b) If a law enforcement officer decides not to make an arrest or decides to arrest two or more parties, the officer shall include in the report the grounds for not arresting anyone or for arresting two or more parties.

(c) A statement which indicates that a copy of the legal rights and remedies notice was given to the victim.

Whenever possible, the law enforcement officer shall obtain a written statement from the victim and witnesses concerning the alleged domestic violence. The officer shall submit the report to the supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made. The law enforcement agency shall, without charge, send a copy of the initial police report, as well as any subsequent, supplemental, or related report, which excludes victim/witness statements or other materials that are part of an active criminal investigation and are exempt from disclosure under chapter 119, to the nearest locally certified domestic violence center within 24 hours after the agency's receipt of the report. The report furnished to the domestic violence center must include a narrative description of the domestic violence incident.

(3) Whenever a law enforcement officer determines upon probable cause that an act of domestic violence has been committed within the jurisdiction the officer may arrest the person or persons suspected of its commission and charge such person or persons with the

appropriate crime. The decision to arrest and charge shall not require consent of the victim or consideration of the relationship of the parties.

(4)(a) When complaints are received from two or more parties, the officers shall evaluate each complaint separately to determine whether there is probable cause for arrest.

(b) If a law enforcement officer has probable cause to believe that two or more persons have committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer shall try to determine who was the primary aggressor. Arrest is the preferred response only with respect to the primary aggressor and not the preferred response with respect to a person who acts in a reasonable manner to protect or defend oneself or another family or household member from domestic violence.

(5) No law enforcement officer shall be held liable, in any civil action, for an arrest based on probable cause, enforcement in good faith of a court order, or service of process in good faith under this chapter arising from an alleged incident of domestic violence brought by any party to the incident.

(6) A person who willfully violates a condition of pretrial release provided in s. 903.047, when the original arrest was for an act of domestic violence as defined in s. 741.28, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall be held in custody until his or her first appearance.

## GEORGIA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? Yes. Hospital administrators are required to make a report of non-accidental injuries.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? No.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **GA. CODE ANN. § 31-7-9 (WEST 2010). REPORTS BY PHYSICIANS AND OTHER PERSONNEL; IMMUNITY FROM LIABILITY.**

(a) As used in this Code section, the term “medical facility” includes, without being limited to, an ambulatory surgical treatment center defined in subparagraph (C) of paragraph (4) of Code Section 31-7-1 and a freestanding imaging center defined in subparagraph (G) of paragraph (4) of Code Section 31-7-1.

(b) Any:

- (1) Physician, including any doctor of medicine licensed to practice under the laws of this state;
- (2) Licensed registered nurse employed by a medical facility;
- (3) Security personnel employed by a medical facility; or
- (4) Other personnel employed by a medical facility whose employment duties involve the care and treatment of patients therein

having cause to believe that a patient has had physical injury or injuries inflicted upon him other than by accidental means shall report or cause reports to be made in accordance with this Code section.

(c) An oral report shall be made immediately by telephone or otherwise and shall be followed by a report in writing, if requested, to the person in charge of the medical facility or his designated delegate. The person in charge of the medical facility or his designated delegate shall then notify the local law enforcement agency having primary jurisdiction in the area in which the medical facility is located of the contents of the report. The report shall contain the name and address of the patient, the nature and extent of the patient's injuries, and any other information that the reporting person believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.

(d) Any person or persons participating in the making of a report or causing a report to be made to the appropriate police authority pursuant to this Code section or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil liability that might otherwise be incurred or imposed, providing such participation pursuant to this Code section shall be in good faith.

## HAWAII

***Specific requirement to report domestic violence?*** No.

***Requirement to report non-accidental or intentional injuries?*** Yes. It is mandatory to report any injury that would seriously maim, produce death, or that has rendered the injured person unconscious, caused by the use of violence or sustained in a suspicious or unusual manner.

***Requirement to report injuries caused by criminal conduct?*** No.

***Additional statutes that may impact competent adult victims of domestic violence?*** It is mandatory to report knife wounds, bullet wounds, and gunshot wounds.

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **HAW. REV. STAT. § 453-14 (WEST 2010). DUTY OF PHYSICIAN, OSTEOPATHIC PHYSICIAN, SURGEON, HOSPITAL, CLINIC, ETC., TO REPORT WOUNDS.**

(a) Every physician, osteopathic physician, physician assistant, and surgeon attending or treating a case of knife wound, bullet wound, gunshot wound, powder burn, or any injury that would seriously maim, produce death, or has rendered the injured person unconscious, caused by the use of violence or sustained in a suspicious or unusual manner or in motor vehicle collisions resulting in serious injury or death, or, whenever the case is treated in a hospital, clinic, or other institution, the manager, superintendent, or person in charge thereof, shall report the case or provide requested information to the chief of police of the county within which the person was attended or treated, giving the name of the injured person, description of the nature, type, and extent of the injury, together with other pertinent information that may be of use to the chief of police. As used herein, the term “chief of police” means the chief of police of each county and any of the chief’s authorized subordinates.

(b) This section shall not apply to wounds, burns, or injuries received by a member of the armed forces of the United States or of the State while engaged in the actual performance of duty.

(c) Any person who fails to make the report called for herein within twenty-four hours after the attendance or treatment shall be fined not less than \$50 nor more than \$500.

## IDAHO

***Specific requirement to report domestic violence? No.***

***Requirement to report non-accidental or intentional injuries? No.***

***Requirement to report injuries caused by criminal conduct? Yes. Domestic violence that results in injury will generally be a crime; therefore, this statute will generally require domestic violence to be reported.***

***Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report injuries inflicted by firearms.***

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **IDAHO CODE ANN. § 39-1390 (WEST 2010). REPORTS TO LAW ENFORCEMENT AGENCIES OF CERTAIN TYPES OF INJURIES.**

(1) As soon as treatment permits, any person operating a hospital or other medical treatment facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall notify the local law enforcement agency of that jurisdiction upon the treatment of or request for treatment of a person when the reporting person has reason to believe that the person treated or requesting treatment has received:

(a) Any injury inflicted by means of a firearm; or

(b) Any injury indicating that the person may be a victim of a criminal offense.

(2) The report provided to the law enforcement agency pursuant to subsection (1) of this section shall include the name and address of the injured person, the character and extent of the person's injuries, and the medical basis for making the report.

(3) Any person operating a medical facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall be held harmless from any civil liability for his reasonable compliance with the provisions of this section.

## ILLINOIS

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? Yes. Domestic violence that results in injury will generally be a crime; therefore, this statute will generally require domestic violence to be reported.*

*Additional statutes that may impact competent adult victims of domestic violence?*

*There is a requirement to report injuries resulting from the discharge of a firearm.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **ILL. COMP. STAT. CH. 20 § 2630/3.2 (WEST 2010). NOTIFICATION OF TREATMENT OF FIREARM INJURY AND INJURY SUSTAINED IN COMMISSION OF OR RECEIVED FROM CRIMINAL OFFENSE.**

It is the duty of any person conducting or operating a medical facility, or any physician or nurse as soon as treatment permits to notify the local law enforcement agency of that jurisdiction upon the application for treatment of a person who is not accompanied by a law enforcement officer, when it reasonably appears that the person requesting treatment has received:

- (1) any injury resulting from the discharge of a firearm; or
- (2) any injury sustained in the commission of or as a victim of a criminal offense.

Any hospital, physician or nurse shall be forever held harmless from any civil liability for their reasonable compliance with the provisions of this Section.

#### **ILL. COMP. STAT. CH. 210 § 85/6.01 (WEST 2010). DOMESTIC VIOLENCE.**

Domestic violence. A hospital licensed under this Act must comply with the standards relating to domestic violence established by the Department. In establishing these standards, the Department shall take into consideration similar standards adopted by the Joint Commission on Health Care Accreditation or other accrediting organization. Nothing in this Section requires a hospital to become accredited by the Joint Commission on Health Care Accreditation or any other accreditation program.

## INDIANA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence?*

*There is a duty to report injuries from guns, firearms, knives, ice picks, and other sharp pointed instruments, as well as certain burns and injuries caused by the manufacture or use of destructive devices.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **IND. CODE § 35-47-7-1 (WEST 2010). PERSONS REQUIRED TO REPORT WOUNDS.**

Sec 1. Every case of a bullet wound, gunshot wound, powder burn, or any other injury arising from or caused by the discharge of a firearm, and every case of a wound which is likely to or may result in death and is actually or apparently inflicted by a knife, ice pick, or other sharp or pointed instrument, shall be reported at once to the law enforcement authorities of the county, city, or town in which the person reporting is located by either the physician attending or treating the case, or by the manager, superintendent, or other person in charge if the case is treated in a hospital, clinic, sanitarium, or other facility or institution. A person who violates this section commits a Class A misdemeanor.

#### **IND. CODE 35-47-7-3 (WEST 2010). BURN INJURY REPORTING.**

Sec 3. (a) As used in this section, "burn" includes chemical burns, flash burns, and thermal burns.

(b) If a person is treated for:

- (1) a second or third degree burn to ten percent (10%) or more of the body;
- (2) any burn to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air; or
- (3) a burn that results in serious bodily injury;

the physician treating the person, or the hospital administrator or the hospital administrator's designee of the hospital or ambulatory outpatient surgical center (if the person is treated in a hospital or outpatient surgical center), shall report the case to the state fire marshal within seventy-two (72) hours. This report may be made orally or in writing and shall be considered confidential information.

(c) If a person is treated for a second or third degree burn to less than ten percent (10%) of the body, the attending physician may report the case to the state fire marshal under subsection (b).

(d) The state fire marshal shall ascertain the following when a report is made under this chapter:

- (1) Victim's name, address, and date of birth.
- (2) Address where burn injury occurred.
- (3) Date and time of injury.
- (4) Degree of burns and percent of body burned.
- (5) Area of body burned.
- (6) Injury severity.
- (7) Apparent cause of burn injury.
- (8) Name and address of reporting facility.
- (9) Attending physician.

**IND. CODE 35-47-7-5 (WEST 2010). DESTRUCTIVE DEVICE INJURY REPORTING.**

Sec 5. The:

- (1) physician who treats a person; or
- (2) administrator or the administrator's designee of the hospital or outpatient surgical center where a person was treated;

who has reason to believe that the physician or hospital is treating a person for an injury that was inflicted while the person was making or using a destructive device shall report the case to a local law enforcement agency not more than seventy-two (72) hours after the person is treated. The report may be made orally or in writing.

**IND. CODE 35-47.5-4-7 (WEST 2010). REPORT OF INJURIES INFLICTED BY  
DESTRUCTIVE DEVICE.**

Sec. 7. A physician or hospital that has reason to believe that the physician or hospital is treating a person for an injury inflicted while the person was making or using a destructive device shall report the injury to a local law enforcement agency under IC 35-47-7-5.

## IOWA

***Specific requirement to report domestic violence? No.***

***Requirement to report non-accidental or intentional injuries? No.***

***Requirement to report injuries caused by criminal conduct? Iowa law requires other "serious injuries" which appear to have been received in connection with the commission of a criminal offense to report the injuries to law enforcement. Domestic violence that results in serious injury will generally be a crime; therefore, this statute will generally require domestic violence to be reported.***

***Additional statutes that may impact competent adult victims of domestic violence?***

***Iowa law requires medical providers treating gunshots, stab wounds or other serious injuries.***

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **IOWA CODE ANN. 147.111 (WEST 2010). REPORT OF TREATMENT OF WOUNDS AND OTHER INJURIES.**

Any person licensed under the provisions of this subtitle who shall administer any treatment to any person suffering a gunshot or stab wound or other serious injury, as defined in section 702.18, which appears to have been received in connection with the commission of a criminal offense, or to whom an application is made for treatment of any nature because of any such gunshot or stab wound or other serious injury, as defined in section 702.18, shall at once but not later than twelve hours thereafter, report that fact to the law enforcement agency within whose jurisdiction the treatment was administered or an application therefore was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the gunshot or stab wound or other serious injury occurred, stating the name of such person, the person's residence if ascertainable, and giving a brief description of the gunshot or stab wound or other serious injury. Any provision of law or rule of evidence relative to confidential communications is suspended insofar as the provisions of this section are concerned.

#### **IOWA CODE 147.112 INVESTIGATION AND REPORT BY LAW ENFORCEMENT AGENCY.**

The law enforcement agency who has received any report required by this chapter and who has any reason to believe that the person injured was involved in the commission of any crime, either as perpetrator or victim, shall at once commence an investigation into the circumstances of the gunshot or stab wound or other serious injury and make a report of the investigation to the county attorney in whose jurisdiction the gunshot or stab wound or other serious injury occurred. Law enforcement personnel shall not divulge any information received under the provisions of this section and section 147.111 to any person other than a law enforcing officer, and then only in connection with the investigation of the alleged commission of a crime.

## KANSAS

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report bullet wounds, gunshot wounds, powder burns and other injuries caused by the discharge of a firearm and wounds which are likely to or may result in death that are apparently inflicted by a knife, ice pick or other pointed instrument. Statute requires certain service professionals to make report if they suspect that an adult is being abused, but employees of domestic violence centers are exempt from the requirement.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **KAN. STAT. ANN. 21-4213 (WEST 2010). UNLAWFUL FAILURE TO REPORT A WOUND.**

(1) Unlawful failure to report a wound is the failure by an attending physician or other person to report his treatment of any wound, described in subsections (a) and (b) hereafter, to the office of the chief of police of the city or the office of the sheriff of the county in which such treatment took place:

(a) Any bullet wound, gunshot wound, powder burn or other injury arising from or caused by the discharge of a firearm; or

(b) Any wound which is likely to or may result in death and is apparently inflicted by a knife, ice pick, or other sharp or pointed instrument.

(2) Unlawful failure to report a wound is a class C misdemeanor.

#### **NOTE:**

[K.S.A. 39-1431](#), as amended by Laws 2001, Ch. 154, § 4, does not mandate the reporting of domestic violence incidents unless the adult victim of the abuse is incapable of caring for himself or herself and is dependent upon others to provide those services that are necessary to maintain both physical and mental health; moreover, K.S.A. 21-4213 which requires reporting certain wounds to law enforcement applies regardless of the circumstances under which the wounds were inflicted. Kan. Op. Atty. Gen. No. 2002-5 (Jan. 28, 2002), [2002 WL 113521](#).

#### **KAN. STAT. ANN. 39-1431 (WEST 2010). ABUSE, NEGLECT OR EXPLOITATION OF CERTAIN ADULTS; REPORTING ABUSE, NEGLECT OR EXPLOITATION OR NEED OF PROTECTIVE**

**SERVICES; PERSONS REQUIRED TO REPORT; PENALTY FOR FAILURE TO REPORT; POSTING NOTICE OF REQUIREMENTS OF ACT.**

(a) Any person who is licensed to practice any branch of the healing arts, a licensed psychologist, a licensed master level psychologist, a licensed clinical psychotherapist, the chief administrative officer of a medical care facility, a teacher, a licensed social worker, a licensed professional nurse, a licensed practical nurse, a licensed dentist, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, registered alcohol and drug abuse counselor, a law enforcement officer, a case manager, a rehabilitation counselor, a bank trust officer or any other officers of financial institutions, a legal representative, a governmental assistance provider, an owner or operator of a residential care facility, an independent living counselor and the chief administrative officer of a licensed home health agency, the chief administrative officer of an adult family home and the chief administrative officer of a provider of community services and affiliates thereof operated or funded by the department of social and rehabilitation services or licensed under K.S.A. 75-3307b and amendments thereto who has reasonable cause to believe that an adult is being or has been abused, neglected or exploited or is in need of protective services shall report, immediately from receipt of the information, such information or cause a report of such information to be made in any reasonable manner. An employee of a domestic violence center shall not be required to report information or cause a report of information to be made under this subsection. Other state agencies receiving reports that are to be referred to the department of social and rehabilitation services and the appropriate law enforcement agency, shall submit the report to the department and agency within six hours, during normal work days, of receiving the information. Reports shall be made to the department of social and rehabilitation services during the normal working week days and hours of operation. Reports shall be made to law enforcement agencies during the time social and rehabilitation services are not in operation. Law enforcement shall submit the report and appropriate information to the department of social and rehabilitation services on the first working day that social and rehabilitation services is in operation after receipt of such information.

(b) The report made pursuant to subsection (a) shall contain the name and address of the person making the report and of the caretaker caring for the involved adult, the name and address of the involved adult, information regarding the nature and extent of the abuse, neglect or exploitation, the name of the next of kin of the involved adult, if known, and any other information which the person making the report believes might be helpful in the investigation of the case and the protection of the involved adult.

(c) Any other person, not listed in subsection (a), having reasonable cause to suspect or believe that an adult is being or has been abused, neglected or exploited or is in need of protective services may report such information to the department of social and rehabilitation services. Reports shall be made to law enforcement agencies during the time social and rehabilitation services are not in operation.

(d) A person making a report under subsection (a) shall not be required to make a report under K.S.A. 39-1401 to 39-1410, inclusive, and amendments thereto.

(e) Any person required to report information or cause a report of information to be made under subsection (a) who knowingly fails to make such report or cause such report not to be made shall be guilty of a class B misdemeanor.

(f) Notice of the requirements of this act and the department to which a report is to be made under this act shall be posted in a conspicuous public place in every adult family home as defined in K.S.A. 39-1501 and amendments thereto and every provider of community services and affiliates thereof operated or funded by the department of social and rehabilitation services or other facility licensed under K.S.A. 75-3307b and amendments thereto, and other institutions included in subsection (a).

## KENTUCKY

***Specific requirement to report domestic violence?*** Yes. It is mandatory to report incidents of domestic violence to the Kentucky Cabinet for Health and Family Services.

***Requirement to report non-accidental or intentional injuries?*** No.

***Requirement to report injuries caused by criminal conduct?*** No.

***Additional statutes that may impact competent adult victims of domestic violence?*** No.

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### STATUTES THAT MANDATE DOMESTIC VIOLENCE REPORTING

#### **KY. REV. STAT. 209.020 DEFINITIONS FOR CHAPTER**

As used in this chapter, unless the context otherwise requires:

(1) “Secretary” means the secretary of the Cabinet for Health and Family Services;

(2) “Cabinet” means the Cabinet for Health and Family Services;

(3) “Department” means the Department for Community Based Services of the Cabinet for Health and Family Services;

(4) “Adult” means a person eighteen (18) years of age or older who, because of mental or physical dysfunctioning, is unable to manage his or her own resources, carry out the activity of daily living, or protect himself or herself from neglect, exploitation, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services;

(5) “Protective services” means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he or she obtains suitable care in or out of his or her home;

(6) “Caretaker” means an individual or institution who has been entrusted with or who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily or by contract, employment, legal duty, or agreement;

(7) “Deception” means but is not limited to:

(a) Creating or reinforcing a false impression, including a false impression as to law, value, intention, or other state of mind;

(b) Preventing another from acquiring information that would affect his or her judgment of a transaction; or

(c) Failing to correct a false impression that the deceiver previously created or reinforced, or that the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;

(8) “Abuse” means the infliction of injury, sexual abuse, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including mental injury;

(9) “Exploitation” means obtaining or using another person's resources, including but not limited to funds, assets, or property, by deception, intimidation, or similar means, with the intent to deprive the person of those resources;

(10) “Investigation” shall include but is not limited to:

(a) A personal interview with the individual reported to be abused, neglected, or exploited. When abuse or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;

(b) An assessment of individual and environmental risk and safety factors;

(c) Identification of the perpetrator, if possible; and

(d) Identification by the Office of Inspector General of instances of failure by an administrator or management personnel of a regulated or licensed facility to adopt or enforce appropriate policies and procedures, if that failure contributed to or caused an adult under the facility's care to be abused, neglected, or exploited;

(11) “Emergency” means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or herself or others;

(12) “Emergency protective services” are protective services furnished an adult in an emergency;

(13) “Protective placement” means the transfer of an adult from his or her present living arrangement to another;

(14) “Court” means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;

(15) “Records” means the medical, mental, health, and financial records of the adult that are in the possession of any hospital, firm, corporation, or other facility, if necessary to complete the investigation mandated in this chapter. These records shall not be disclosed for any purpose other than the purpose for which they have been obtained;

(16) “Neglect” means a situation in which an adult is unable to perform or obtain for himself or herself the goods or services that are necessary to maintain his or her health or welfare, or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult; and

(17) “Authorized agency” means:

(a) The Cabinet for Health and Family Services;

(b) A law enforcement agency or the Department of Kentucky State Police;

(c) The office of a Commonwealth's attorney or county attorney; or

(d) The appropriate division of the Office of the Attorney General.

**KY. REV. STAT. 209.030 (WEST 2010). ADMINISTRATIVE REGULATIONS; REPORTS OF ADULT ABUSE, NEGLECT, OR EXPLOITATION; CABINET ACTIONS; STATUS AND DISPOSITION REPORTS.**

(1) The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. While the cabinet shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing in this chapter shall restrict the powers of another authorized agency to act under its statutory authority.

(2) Any person, including but not limited to physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(3) An oral or written report shall be made immediately to the cabinet upon knowledge of suspected abuse, neglect, or exploitation of an adult.

(4) Any person making such a report shall provide the following information, if known:

(a) The name and address of the adult, or of any other person responsible for his care;

(b) The age of the adult;

(c) The nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation;

(d) The identity of the perpetrator, if known;

(e) The identity of the complainant, if possible; and

(f) Any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(5) Upon receipt of the report, the cabinet shall conduct an initial assessment and take the following action:

(a) Notify within twenty-four (24) hours of the receipt of the report the appropriate law enforcement agency. If information is gained through assessment or investigation relating to emergency circumstances or a potential crime, the cabinet shall immediately notify and document notification to the appropriate law enforcement agency;

(b) Notify each appropriate authorized agency. The cabinet shall develop standardized procedures for notifying each appropriate authorized agency when an investigation begins and when conditions justify notification during the pendency of an investigation;

(c) Initiate an investigation of the complaint; and

(d) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(6) (a) The cabinet shall, to the extent practicable, coordinate its investigation with the appropriate law enforcement agency and, if indicated, any appropriate authorized agency or agencies.

(b) The cabinet shall, to the extent practicable, support specialized multidisciplinary teams to investigate reports made under this chapter. This team may include law enforcement officers, social workers, Commonwealth's attorneys and county attorneys, representatives from other authorized agencies, medical professionals, and other related professionals with investigative responsibilities, as necessary.

(7) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter. Any representative of the cabinet actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to financial records and the mental and physical health records of the adult which are in the possession of any hospital, firm, financial institution, corporation, or other facility if necessary to complete the investigation mandated by this chapter. These records shall not be disclosed for any purpose other than the purpose for which they have been obtained.

(8) Any representative of the cabinet may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not consent to the investigation, a search warrant may be issued upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the cabinet to proceed with the investigation.

(9) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(10) In the event the adult elects to accept the protective services to be provided by the cabinet, the caretaker shall not interfere with the cabinet when rendering such services.

(11) The cabinet shall consult with local agencies and advocacy groups, including but not limited to long-term care ombudsmen, law enforcement agencies, bankers, attorneys, providers of nonemergency transportation services, and charitable and faith-based organizations, to encourage the sharing of information, provision of training, and promotion of awareness of adult abuse, neglect, and exploitation, crimes against the elderly, and adult protective services.

(12) (a) By November 1 of each year and in accordance with state and federal confidentiality and open records laws, each authorized agency that receives a report of adult abuse, neglect, or exploitation shall submit a written report to the cabinet that provides the current status or disposition of each case referred to that agency by the cabinet under this chapter during the preceding year. The Elder Abuse Committee established in KRS 209.005 may recommend practices and procedures in its model protocol for reporting to the cabinet under this section.

(b) By December 30 of each year, the cabinet shall provide a written report to the Governor and the Legislative Research Commission that summarizes the status of and actions taken on all reports received from authorized agencies and specific departments within the cabinet under this subsection. The cabinet shall identify any report required under paragraph (a) of this subsection that is not received by the cabinet. Identifying information about individuals who are the subject of a report of suspected adult abuse, neglect, or exploitation shall not be included in the report under this paragraph. The report shall also include recommendations, as appropriate, to improve the coordination of investigations and the provision of protective services. The cabinet shall make the report available to community human services organizations and others upon request.

## LOUISIANA

***Specific requirement to report domestic violence?*** Yes, health care providers are required to report suspected abuse to the State Department of Hospitals or the local law enforcement.

***Requirement to report non-accidental or intentional injuries?*** No.

***Requirement to report injuries caused by criminal conduct?*** No.

***Additional statutes that may impact competent adult victims of domestic violence?*** It is mandatory to report gunshot wounds and certain burns. Statute under adult protective services chapter requires reporting of abuse, neglect, or exploitation.

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### STATUTES THAT MANDATE DOMESTIC VIOLENCE REPORTING

#### **LA. REV. STAT. ANN. § 2009.20 (WEST 2010). DUTY TO MAKE COMPLAINTS; PENALTY; IMMUNITY**

A. As used in this Section, the following terms shall mean:

(1) "Abuse" is the infliction of physical or mental injury or the causing of the deterioration of a consumer by means including but not limited to sexual abuse, or exploitation of funds or other things of value to such an extent that his health or mental or emotional well-being is endangered.

(2) "Neglect" is the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a consumer's well-being.

B. (1) Any person who is engaged in the practice of medicine, social services, facility administration, psychological or psychiatric services; or any registered nurse, licensed practical nurse, nurse's aide, home- and community-based service provider employee or worker, personal care attendant, respite worker, physician's assistant, physical therapist, or any other direct caregiver having knowledge that a consumer's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, or exploitation shall, within twenty-four hours, submit a report to the department or inform the unit or local law enforcement agency of such abuse or neglect. When the department receives a report of sexual or physical abuse, whether directly or by referral, the department shall notify the chief law enforcement agency of the parish in which the incident occurred of such report. Such notification shall be made prior to the end of the business day subsequent to the day on which the department received the report. For the purposes of this Paragraph, the chief law enforcement agency of Orleans Parish shall be the New Orleans Police Department.

(2) Any person who knowingly or willfully violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than two months, or both.

C. Any person, other than the person alleged to be responsible for the abuse or neglect, reporting pursuant to this Section in good faith shall have immunity from any civil liability that otherwise might be incurred or imposed because of such report. Such immunity shall extend to participation in any judicial proceeding resulting from such report.

D. All hospitals shall permanently display in a prominent location in their emergency rooms a copy of R.S. 40:2009.20.

#### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **LA. REV. STAT. ANN. § 14:403.4 (WEST 2010). BURN INJURIES AND WOUNDS; REPORTS; REGISTRY; IMMUNITY; PENALTIES.**

A. The purpose of this Section is to combat arson through the rapid identification and apprehension of suspected arsonists who may suffer burn injuries during the commission of their crimes. It is the further intent of this Section to provide for a central registry for burn injuries and wounds data from which effective fire and arson prevention and fire safety education programs may be developed.

B. In every case of a burn injury or wound in which the victim sustains second or third degree burns to five percent or more of the body or any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air, and every case of a burn injury or wound which is likely to or may result in death shall be reported to the office of the state fire marshal, code enforcement and building safety, hereinafter sometimes referred to as the "office". That office shall then immediately notify the appropriate local or state investigatory agency or law enforcement agency of the receipt of such report and its contents.

C. (1) An oral report shall be made within twenty-four hours of the examination or treatment of the victim. The report shall be made by the physician attending or treating the case, or by the manager, superintendent, director, or other person in charge whenever such case is treated in a hospital, burn center, sanitarium, or other medical facility. The report may be recorded electronically or in any other suitable manner, by the office of the state fire marshal, code enforcement and building safety.

(2) The oral report shall contain the following information if known:

- (a) Victim's name, address, and date of birth.
- (b) Address where the burn injury occurred.
- (c) Date and time of the burn injury.

(d) Degree of burns and percent of body burned.

(e) Area of body injured.

(f) Injury severity.

(g) Apparent cause of burn injury.

(h) Name and address of reporting facility.

(i) Name of the attending physician.

D. (1) The office shall maintain a central registry of all reported cases of the treatment or examination of persons with burn injuries or wounds. The registry may be used to provide information to those agencies whose duties include the investigation into possible arson activities.

(2) The office of the state fire marshal, code enforcement and building safety, may adopt rules and regulations as may be necessary in carrying out the provisions of this Section. Specifically such rules shall provide for cooperation with local investigatory and law enforcement agencies and may also authorize law enforcement personnel and the state fire marshal to review those medical records of reported victims which relate to the burn without the consent of the victim.

E. No cause of action shall exist against any person who in good faith makes a report pursuant to this Section, cooperates in an investigation by any agency, or participates in any judicial proceeding resulting from such report.

F. Any person who knowingly files a false report shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

**LA. REV. STAT. ANN. § 14:403.5 (WEST 2010). GUNSHOT WOUNDS; MANDATORY REPORTING.**

A. The purpose of this Section is to aid law enforcement in combating violent crime through the rapid identification and reporting of all gunshot wounds or injuries treated by any medical professionals, practitioners, or associated personnel.

B. In every case of a gunshot wound or injury presented for treatment to a medical professional, practitioner, or associated person, that professional, practitioner, or associated person shall make an oral notification to either the sheriff of the parish in which the wounded person was presented for treatment, or the chief or superintendent of police in the municipality in which the wounded person was presented for treatment immediately after

complying with all applicable state and federal laws, rules, and regulations related to the treatment of emergencies and before the wounded person is released from the hospital. A written notation of this action shall be made on the emergency record.

C. The provisions of this Section shall not apply to any wounds or injuries received from the firing of an air gun.

D. Any report of a gunshot wound or injury required to be reported by this Section which does not result in criminal prosecution shall not become public record and shall be destroyed by the law enforcement agency receiving the information.

E. Any person who fails to file a report under this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both. Any person who knowingly files a false report under this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

#### **LA. REV. STAT. ANN. § 15:1504 (WEST 2010) MANDATORY REPORTS AND IMMUNITY.**

A. Any person, including but not limited to a health, mental health, and social service practitioner, having cause to believe that an adult's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, or exploitation shall report in accordance with R.S. 15:1505.

B. No cause of action shall exist against any person who in good faith makes a report, cooperates in an investigation by an adult protective agency, or participates in judicial proceedings authorized under the provisions of this Chapter, or any adult protective services caseworker who in good faith conducts an investigation or makes an investigative judgment or disposition, and such person shall have immunity from civil or criminal liability that otherwise might be incurred or imposed. This immunity shall not be extended to:

(1) Any alleged principal, conspirator, or accessory to an offense involving the abuse or neglect of the adult.

(2) Any person who makes a report known to be false or with reckless disregard for the truth of the report.

(3) Any person charged with direct or constructive contempt of court, any act of perjury as defined in Subpart C of Part VII of Chapter 1 of Title 14, or any offense affecting judicial functions and public records as defined in Subpart D of Part VII of Chapter 1 of Title 14.

## MAINE

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report gunshot wounds within 24 hours of treatment.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **ME. REV. STAT. ANN. TIT. 17-A § 512 (WEST 2010). FAILURE TO REPORT TREATMENT OF A GUNSHOT WOUND.**

1. A person is guilty of failure to report treatment of a gunshot wound if, being a health care practitioner or emergency medical services person, that person treats a human being for a wound apparently caused by the discharge of a firearm and knowingly fails to report the same to a law enforcement agency immediately by the quickest means of communication.
2. Failure to report treatment of a gunshot wound is a Class E crime.
3. As used in this section, “health care practitioner” has the same meaning as in Title 24, section 2502, subsection 1-A, and “emergency medical services person” has the same meaning as in Title 32, section 83, subsection 12.

## MARYLAND

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report gunshot wounds and, in some counties, injuries sustained by an automobile or lethal weapon.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **MD. CODE ANN., HEALTH – GEN., § 20-703 (WEST 2010). INJURY REPORTS INVOLVING GUNSHOT WOUNDS**

Injury reports required

(a) A physician, pharmacist, dentist, or nurse who treats an individual for an injury that was caused or shows evidence of having been caused by a gunshot of any type, or the individual in charge of a hospital that treats the injured individual, shall notify the county sheriff, the county police, or the Department of State Police of the injury as soon as practicable.

Contents

(b) A report of injury shall include:

- (1) The injured individual's name and address, if known;
- (2) A description of the injury; and
- (3) Any other facts concerning the matter that might assist in detecting crime.

Fines and penalties

(c) A person who fails to make a report required by this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$25.

#### **MD. CODE, HEALTH – GEN., § 20-701 (WEST 2010). INJURY REPORTS REQUIREMENTS**

Application of section

(a) This section applies only in:

- (1) Allegany County;
- (2) Anne Arundel County;
- (3) Charles County;
- (4) Harford County;
- (5) Kent County;
- (6) Montgomery County;
- (7) Prince George's County;
- (8) Somerset County;
- (9) Talbot County; and
- (10) Wicomico County.

#### Injury reports required

(b) A physician, pharmacist, dentist, or nurse who treats an individual for an injury that was caused or shows evidence of having been caused by an automobile accident or a lethal weapon, or the individual in charge of a hospital that treats the injured individual, shall notify the county sheriff, the county police, or the Department of State Police of the injury as soon as practicable.

#### Contents

(c) A report of injury shall include:

- (1) The injured individual's name and address, if known;
- (2) A description of the injury; and
- (3) Any other facts concerning the matter that might assist in detecting crime.

#### Fines and penalties

(d) An individual who fails to make a report required by this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$25.

## MASSACHUSETTS

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? Yes.*

*Massachusetts has mandatory reporting for bullet wounds, gunshot wounds and other injuries caused by firearms, certain burns, and injuries caused by a knife or sharp pointed instrument if, in the physician's opinion, a criminal act was involved.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **MASS. GEN. LAWS ANN. 112 § 12A (WEST 2010). REPORT OF TREATMENT OF WOUNDS, BURNS AND OTHER INJURIES; PENALTY**

Every physician attending or treating a case of bullet wound, gunshot wound, powder burn or any other injury arising from or caused by the discharge of a gun, pistol, BB gun, or other air rifle or firearm, or examining or treating a person with a burn injury affecting five per cent or more of the surface area of his body, or, whenever any such case is treated in a hospital, sanatorium or other institution, the manager, superintendent or other person in charge thereof, shall report such case at once to the colonel of the state police and to the police of the town where such physician, hospital, sanatorium or institution is located or, in the case of burn injuries, notification shall be made at once to the state fire marshal and to the police of the town where the burn injury occurred. This section shall not apply to such wounds, burns or injuries received by any member of the armed forces of the United States or of the commonwealth while engaged in the actual performance of duty. Every physician attending or treating a case of wound or injury caused by a knife or sharp or pointed instrument shall, if in his opinion a criminal act was involved, report such case forthwith to the police authorities of the town in which he attended or treated such wound or injury. Whoever violates any provision of this section shall be punished by a fine of not less than fifty nor more than one hundred dollars. The colonel of state police shall make available to the commissioner of public health all reports regarding:

(i) bullet wounds, gunshot wounds, powder burns or any other injury arising from or caused by the discharge of a rifle, shotgun, firearm or air rifle;

(ii) burn injuries affecting 5 per cent or more of the surface area of the human body;  
and

(iii) wounds or injuries caused by a knife or other sharp or pointed instrument;  
provided, however, that personal information identifying the victim or the perpetrator may be redacted if the release of such information may compromise an investigation.

## MICHIGAN

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report wounds or other injuries inflicted by means of a knife, gun, pistol, other deadly weapon or other means of violence.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **MICH. COMP. LAWS ANN. 750.411 (WEST 2010). INJURIES BY MEANS OF DEADLY WEAPONS; DUTY TO REPORT; VIOLATION, MISDEMEANOR; IMMUNITY.**

(1) A person, firm, or corporation conducting a hospital or pharmacy in this state, the person managing or in charge of a hospital or pharmacy, or the person in charge of a ward or part of a hospital to which 1 or more persons come or are brought suffering from a wound or other injury inflicted by means of a knife, gun, pistol, or other deadly weapon, or by other means of violence, has a duty to report that fact immediately, both by telephone and in writing, to the chief of police or other head of the police force of the village or city in which the hospital or pharmacy is located, or to the county sheriff if the hospital or pharmacy is located outside the incorporated limits of a village or city. The report shall state the name and residence of the person, if known, his or her whereabouts, and the cause, character, and extent of the injuries and may state the identification of the perpetrator, if known.

(2) A physician or surgeon who has under his or her charge or care a person suffering from a wound or injury inflicted in the manner described in subsection (1) has a duty to report that fact in the same manner and to the same officer as required by subsection (1).

(3) A person, firm, or corporation that violates this section is guilty of a misdemeanor.

(4) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, a person who makes a report in good faith under subsection (1) or (2) or who cooperates in good faith in an investigation, civil proceeding, or criminal proceeding conducted as a result of such a report is immune from civil or criminal liability that would otherwise be incurred by making the report or cooperating in the investigation or civil or criminal proceeding. A person who makes a report under subsection (1) or (2) or who cooperates in an investigation, civil proceeding, or criminal proceeding conducted as a result of such a report is presumed to have acted in good faith. The presumption created by this subsection may be rebutted only by clear and convincing evidence.

(5) The immunity from civil and criminal liability granted under subsection (4) extends only to the actions described in subsection (4) and does not extend to another act or omission that is negligent or that amounts to professional malpractice, or both, and that causes personal injury or death.

(6) The physician-patient privilege created under section 2157 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157, a health professional-patient privilege created under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, and any other health professional-patient privilege created or recognized by law do not apply to a report made under subsection (1) or (2), are not valid reasons for a failure to comply with subsection (1) or (2), and are not a defense to a misdemeanor charge filed under this section.

## MINNESOTA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? Yes.*

*Additional statutes that may impact competent adult victims of domestic violence? Health care providers are required to report gunshot wounds, burns, and other injuries the medical provider has reasonable cause to believe have been inflicted by a perpetrator of a crime by a dangerous weapon other than a firearm.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **MINN. STAT. ANN. 626.52 (WEST 2010). REPORTING OF SUSPICIOUS WOUNDS BY HEALTH PROFESSIONALS.**

Subdivision 1. Definition. As used in this section, “health professional” means a physician, surgeon, person authorized to engage in the practice of healing, superintendent or manager of a hospital, nurse, or pharmacist.

Subd. 2. Health professionals required to report. A health professional shall immediately report, as provided under section 626.53, to the local police department or county sheriff all bullet wounds, gunshot wounds, powder burns, or any other injury arising from, or caused by the discharge of any gun, pistol, or any other firearm, which wound the health professional is called upon to treat, dress, or bandage.

A health professional shall report to the proper police authorities any wound that the reporter has reasonable cause to believe has been inflicted on a perpetrator of a crime by a dangerous weapon other than a firearm as defined under section 609.02, subdivision 6.

Subd. 3. Reporting burns. A health professional shall file a written report with the state fire marshal within 72 hours after being notified of a burn injury or wound that the professional is called upon to treat, dress, or bandage, if the victim has sustained second- or third-degree burns to five percent or more of the body, the victim has sustained burns to the upper respiratory tract or sustained laryngeal edema from inhaling superheated air, or the victim has sustained a burn injury or wound that may result in the victim's death. The state fire marshal shall provide the form for the report.

Subd. 4. Immunity from liability. Any person reporting in good faith and exercising due care shall have immunity from any liability, civil or criminal, that otherwise might result by reason of the person's actions pursuant to this section or section 626.53. No cause of action may be brought against any person for not making a report pursuant to this section or section 626.53.

## MISSISSIPPI

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is a mandatory to report injuries caused by gunshot or knifing.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **MISS. CODE ANN. § 45-9-31 (WEST 2010). DUTY TO REPORT.**

Any physician, surgeon, dentist, veterinarian, paramedical employee, or nurse, or any employee of a hospital, clinic, or any other medical institution or office where patients regularly receive care, who treats, at any location, any human being suffering from a wound or injury and who has reason to believe or ought to know that the wound or injury was caused by gunshot or knifing, or receiving a request for such treatment, shall report the same immediately to the municipal police department or sheriff's office of the municipality or county in which such treatment is administered or request for such treatment is received. If the wound or injury is the result of a hunting or boating accident, the injury shall be reported immediately to the Mississippi Department of Wildlife, Fisheries and Parks.

Any person making a report or the reports required by this section shall be immune from civil liability for the making of the said reports.

## MISSOURI

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence?*

*Gunshot wounds are required to be reported.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **MO. ANN. STAT. 578.350 (WEST 2010). GUNSHOT WOUNDS--PHYSICIANS, NURSES, THERAPISTS, DUTY TO REPORT, CONTENT--VIOLATION, PENALTY.**

1. Any person licensed under chapter 334 or 335, RSMo, who treats a person for a wound inflicted by gunshot shall immediately report to a local law enforcement official the name and address of the person, if known, and if unknown, a description of the person, together with an explanation of the nature of the wound and the circumstances under which the treatment was rendered.
2. Any person licensed under chapter 334 or 335, RSMo, who knowingly fails to report the injuries described in this section is guilty of the offense of medical deception.
3. Medical deception is an infraction.

## MONTANA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? There is a duty to report that a victim has been stabbed or shot. A police officer is required to make a written report when called to the scene of domestic violence, whether or not an arrest is made.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **MONT. CODE ANN. 37-2-302 (WEST 2010). GUNSHOT OR STAB WOUNDS TO BE REPORTED.**

The physician, nurse, or other person licensed to practice a health care profession treating the victim of a gunshot wound or stabbing shall make a report to a law enforcement officer by the fastest possible means. Within 24 hours after initial treatment or first observation of the wound, a written report shall be submitted, including the name and address of the victim, if known, and shall be sent by regular mail.

## NEBRASKA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? Yes. It is mandatory to report wounds or injuries of violence that appear to have been received in connection with the commission of a criminal offense. Domestic violence that results in injury will generally be a crime; therefore, this statute will generally require domestic violence to be reported.*

*Additional statutes that may impact competent adult victims of domestic violence? No.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **NEB. REV. STAT. 28-902 (WEST 2010). FAILURE TO REPORT INJURY OF VIOLENCE; PHYSICIAN OR SURGEON; EMERGENCY ROOM OR FIRST-AID STATION ATTENDANT; PENALTY.**

(1) Every person engaged in the practice of medicine and surgery, or who is in charge of any emergency room or first-aid station in this state, shall report every case, in which he is consulted for treatment or treats a wound or injury of violence which appears to have been received in connection with the commission of a criminal offense, immediately to the chief of police of the municipality or to the sheriff of the county wherein the consultation or treatment occurs. Such report shall include the name of such person, the residence, if ascertainable, and a brief description of the injury. Any provision of law or rule of evidence relative to confidential communications is suspended insofar as the provisions of this section are concerned.

(2) Any person who fails to make the report required by subsection (1) of this section commits a Class III misdemeanor.

## NEVADA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report knife and gunshot wounds not inflicted under accidental circumstances as well as certain burns.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **NEV. REV. STAT. 629.041. PROVIDER OF HEALTH CARE TO REPORT PERSONS HAVING CERTAIN INJURIES.**

Every provider of health care to whom any person comes or is brought for treatment of an injury which appears to have been inflicted by means of a firearm or knife, not under accidental circumstances, shall promptly report the person's name, if known, his or her location and the character and extent of the injury to an appropriate law enforcement agency.

#### **NEV. REV. STAT. 629.045. PROVIDER OF HEALTH CARE TO REPORT PERSONS HAVING CERTAIN BURNS.**

1. Every provider of health care to whom any person comes or is brought for the treatment of:

- (a) Second or third degree burns to 5 percent or more of the body;
- (b) Burns to the upper respiratory tract or laryngeal edema resulting from the inhalation of heated air; or
- (c) Burns which may result in death,

shall promptly report that information to the appropriate local fire department.

2. The report required by subsection 1 must include:

- (a) The name and address of the person treated, if known;
- (b) The location of the person treated; and
- (c) The character and extent of the injuries.

3. A person required to make a report pursuant to subsection 1 shall, within 3 working days after treating the person, submit a written report to:

(a) The appropriate local fire department in counties whose population is 40,000 or more; or

(b) The State Fire Marshal in counties whose population is less than 40,000.

The report must be on a form provided by the State Fire Marshal.

4. A provider of health care and his or her agents and employees are immune from any civil action for any disclosures made in good faith in accordance with the provisions of this section or any consequential damages.

## NEW HAMPSHIRE

***Specific requirement to report domestic violence?*** No.

***Requirement to report non-accidental or intentional injuries?*** No.

***Requirement to report injuries caused by criminal conduct?*** Yes, however, there is an exception for sexual assault victims 18 years and older not also suffering from a gunshot wound or other serious bodily injury. Domestic violence that results in injury will generally be a crime; therefore, this statute will generally require domestic violence to be reported.

***Additional statutes that may impact competent adult victims of domestic violence?*** There is a requirement that gunshot wounds be reported; however, there is an exception for sexual assault victims 18 years and older not also suffering from a gunshot wound or other serious bodily injury.

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **N.H. REV. STAT. 631:6 (WEST 2010). FAILURE TO REPORT INJURIES.**

I. Except as provided in paragraph II, a person is guilty of a misdemeanor if, having knowingly treated or assisted another for a gunshot wound or for any other injury he believes to have been caused by a criminal act, he fails immediately to notify a law enforcement official of all the information he possesses concerning the injury.

II. A person who has rendered treatment or assistance is excepted from the reporting provisions of paragraph I if the person seeking or receiving treatment or other assistance: (a) is 18 years of age or older, (b) has been a victim of a sexual assault offense or abuse as defined in RSA 173-B:1, and (c) objects to the release of any information to law enforcement officials. This exception shall not apply if the sexual assault or abuse victim is also being treated for a gunshot wound or other serious bodily injury.

III. [Repealed.]

## NEW JERSEY

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report gunshot wounds, stab wounds, and wounds caused by destructive devices, explosives or weapons as well as certain burns.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **N.J. STAT. ANN. 2C:58-8 (WEST 2010). CERTAIN WOUNDS AND INJURIES TO BE REPORTED.**

a. Every case of a wound, burn or any other injury arising from or caused by a firearm, destructive device, explosive or weapon shall be reported at once to the police authorities of the municipality where the person reporting is located or to the State Police by the physician consulted, attending or treating the case or the manager, superintendent or other person in charge, whenever such case is presented for treatment or treated in a hospital, sanitarium or other institution. This subsection shall not, however, apply to wounds, burns or injuries received by a member of the armed forces of the United States or the State of New Jersey while engaged in the actual performance of duty.

b. Every case which contains the criteria defined in this subsection shall be reported at once to the police authorities of the municipality where the person reporting is located, or to the Division of State Police, by the physician consulted, attending, or treating the injury, or by the manager, superintendent, or other person in charge, whenever such case is presented for treatment or treated in a hospital, sanitarium or any other institution, facility, or office where medical care is provided. This subsection shall not apply to injuries received by a member of the armed forces of the United States or the State of New Jersey while engaged in the actual performance of duty.

The defined criteria shall consist of a flame burn injury accompanied by one or more of the following factors:

(1) A fire accelerant was used in the incident causing the injury and the presence of an accelerant creates a reasonable suspicion that the patient committed arson in violation of N.J.S.2C:17-1.

(2) Treatment for the injury was sought after an unreasonable delay of time.

(3) Changes or discrepancies in the account of the patient or accompanying person concerning the cause of the injury which creates a reasonable suspicion that the patient committed arson in violation of N.J.S.2C:17-1.

(4) Voluntary statement by the patient or accompanying person that the patient was injured during the commission of arson in violation of N.J.S.2C:17-1.

(5) Voluntary statement by the patient or accompanying person that the patient was injured during a suicide attempt or the commission of criminal homicide in violation of N.J.S.2C:11-1.

(6) Voluntary statement by the patient or accompanying person that the patient has exhibited fire setting behavior prior to the injury or has received counseling for such behavior.

(7) Any other factor determined by the bureau of fire safety in the Department of Community Affairs from information in the burn patient arson registry established under section 4 of P.L.1991, c. 433 (C. 52:27D-25d3) to typify a patient whose injuries were caused during the commission of arson in violation of N.J.S.2C:17-1.

## NEW MEXICO

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

***Additional statutes that may impact competent adult victims of domestic violence?***

*Medical personnel who treat a patient who reports or who the personnel have reason to believe is the victim of domestic abuse, the personnel must give the patient a referral to and information on victim's services; if the patient reports the abuse, the personnel must "the nature of the abuse and the name of the alleged perpetrator" in the patient's file.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **N.M. STAT. ANN. § 40-13-7.1. (WEST 2010). MEDICAL PERSONNEL; DOCUMENTATION OF DOMESTIC ABUSE**

A. When medical personnel who are interviewing, examining, attending or treating a person:

(1) receive a report from the person of an act of domestic abuse, the medical personnel shall document the nature of the abuse and the name of the alleged perpetrator of the abuse in the person's medical file and shall provide the person with information and referral to services for victims of domestic abuse; or

(2) may have reason to believe or suspect that the person is a victim of domestic abuse, the medical personnel shall provide the person with information and referral to services for victims of domestic abuse.

B. Medical and other health care related information or communications concerning domestic abuse of a person obtained by or from medical personnel during the course of an interview, examination, diagnosis or treatment are confidential communications unless released:

(1) with the prior written consent of the person;

(2) pursuant to a court order; or

(3) when necessary to provide treatment, payment and operations in accordance with the federal Health Insurance Portability and Accountability Act.

C. As used in this section, "medical personnel" means:

(1) licensed health care practitioners;

(2) licensed emergency medical technicians;

(3) health care practitioners who interview, examine, attend or treat a person and who are under the guidance or supervision of licensed health care practitioners; and

(4) residents and interns.

## NEW YORK

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report bullet wounds, gunshot wounds, and wounds that are actually or apparently inflicted by a knife, icepick or other sharp or pointed instrument that are likely to or may result in death. In addition, certain burn injuries must be reported.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **N.Y. PENAL § 265.25 (WEST 2010). CERTAIN WOUNDS TO BE REPORTED.**

Every case of a bullet wound, gunshot wound, powder burn or any other injury arising from or caused by the discharge of a gun or firearm, and every case of a wound which is likely to or may result in death and is actually or apparently inflicted by a knife, icepick or other sharp or pointed instrument, shall be reported at once to the police authorities of the city, town or village where the person reporting is located by: (a) the physician attending or treating the case; or (b) the manager, superintendent or other person in charge, whenever such case is treated in a hospital, sanitarium or other institution. Failure to make such report is a class A misdemeanor. This subdivision shall not apply to such wounds, burns or injuries received by a member of the armed forces of the United States or the state of New York while engaged in the actual performance of duty.

#### **N.Y. PENAL. § 265.26 (WEST 2010). BURN INJURY AND WOUNDS TO BE REPORTED.**

Every case of a burn injury or wound, where the victim sustained second or third degree burns to five percent or more of the body and/or any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air, and every case of a burn injury or wound which is likely to or may result in death, shall be reported at once to the office of fire prevention and control. The state fire administrator shall accept the report and notify the proper investigatory agency. A written report shall also be provided to the office of fire prevention and control within seventy-two hours. The report shall be made by

(a) the physician attending or treating the case; or

(b) the manager, superintendent or other person in charge, whenever such case is treated in a hospital, sanitarium, institution or other medical facility.

The intentional failure to make such report is a class A misdemeanor.

## NORTH CAROLINA

***Specific requirement to report domestic violence?*** No.

***Requirement to report non-accidental or intentional injuries?*** No.

***Requirement to report injuries caused by criminal conduct?*** Yes. It is mandatory to report injuries or illnesses in which there is grave bodily harm or grave illness if it appears that the wound or injury resulted from a criminal act of violence. Domestic violence that results in injury will generally be a crime; therefore, this statute will require domestic violence to be reported if the injury gave rise to grave bodily harm.

***Additional statutes that may impact competent adult victims of domestic violence?*** It is mandatory to report bullet wounds, gunshot wounds, injuries which appear to be caused by the discharge of a gun or firearm, illnesses apparently caused by poisoning, wounds or injuries caused or apparently caused by knives or sharp pointed instruments if it appears that a criminal act was involved and wounds.

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **N.C. GEN. STAT. ANN. § 90-21.20 (WEST 2010). REPORTING BY PHYSICIANS AND HOSPITALS OF WOUNDS, INJURIES AND ILLNESSES.**

(a) Such cases of wounds, injuries or illnesses as are enumerated in subsection (b) shall be reported as soon as it becomes practicable before, during or after completion of treatment of a person suffering such wounds, injuries, or illnesses. If such case is treated in a hospital, sanitarium or other medical institution or facility, such report shall be made by the Director, Administrator, or other person designated by the Director or Administrator, or if such case is treated elsewhere, such report shall be made by the physician or surgeon treating the case, to the chief of police or the police authorities of the city or town of this State in which the hospital or other institution, or place of treatment is located. If such hospital or other institution or place of treatment is located outside the corporate limits of a city or town, then the report shall be made by the proper person in the manner set forth above to the sheriff of the respective county or to one of his deputies.

(b) Cases of wounds, injuries or illnesses which shall be reported by physicians, and hospitals include every case of a bullet wound, gunshot wound, powder burn or any other injury arising from or caused by, or appearing to arise from or be caused by, the discharge of a gun or firearm, every case of illness apparently caused by poisoning, every case of a wound or injury caused, or apparently caused, by a knife or sharp or pointed instrument if it appears to the physician or surgeon treating the case that a criminal act was involved, and every case of a wound, injury or illness in which there is grave bodily harm or grave illness if it appears to the physician or surgeon treating the case that the wound, injury or illness resulted from a criminal act of violence.

(c) Each report made pursuant to subsections (a) and (b) above shall state the name of the wounded, ill or injured person, if known, and the age, sex, race, residence or present location, if known, and the character and extent of his injuries.

(c1) In addition to the reporting requirements of subsection (b) of this section, cases involving recurrent illness or serious physical injury to any child under the age of 18 years where the illness or injury appears, in the physician's professional judgment, to be the result of non-accidental trauma shall be reported by the physician as soon as it becomes practicable before, during, or after completion of treatment. If the case is treated in a hospital, sanitarium, or other medical institution or facility, the report shall be made by the Director, Administrator, or other person designated by the Director or Administrator of the medical institution or facility, or if the case is treated elsewhere, the report shall be made by the physician or surgeon treating the case to the chief of police or the police authorities of the city or town in this State in which the hospital or other institution or place of treatment is located. If the hospital or other institution or place of treatment is located outside the corporate limits of a city or town, then the report shall be made by the proper person in the manner set forth above to the sheriff of the respective county or to one of the sheriff's deputies. This reporting requirement is in addition to the duty set forth in G.S. 7B-301 to report child abuse, neglect, dependence, or the death of any juvenile as the result of maltreatment to the director of the department of social services in the county where the juvenile resides or is found.

(d) Any hospital, sanitarium, or other like institution or Director, Administrator, or other designated person, or physician or surgeon participating in good faith in the making of a report pursuant to this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as the result of the making of such report.

## NORTH DAKOTA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? Yes. Domestic violence that results in injury will generally be a crime; therefore, this statute will generally require domestic violence to be reported.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report injuries inflicted by a knife, gun or pistol. Statute requires that medical personnel who treat victims of domestic violence provide those victims with information regarding a domestic violence sexual assault organization.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **N.D. CENT. CODE § 43-17-41 (WEST 2010). DUTY OF PHYSICIANS AND OTHERS TO REPORT INJURY—PENALTY.**

1. Any physician, physician assistant, or any individual licensed under chapter 43-12.1 who performs any diagnosis or treatment for any individual suffering from any wound, injury, or other physical trauma:

a. Inflicted by the individual's own act or by the act of another by means of a knife, gun, or pistol shall as soon as practicable report the wound, injury, or trauma to a law enforcement agency in the county in which the care was rendered; or

b. Which the individual performing diagnosis or treatment has reasonable cause to suspect was inflicted in violation of any criminal law of this state, shall as soon as practicable report the wound, injury, or trauma to a law enforcement agency in the county in which the care was rendered.

2. The report under subsection 1 must state the name of the injured individual and the character and extent of the individual's injuries.

3. When a report of domestic violence, as defined in section 14-07.1-01, or a report of physical injury resulting from a sexual offense, as defined in chapter 12.1-20, is made to a law enforcement agency as required by this section, the injured individual must be provided with information regarding a domestic violence sexual assault organization as defined in section 14-07.1-01 or other victims' assistance program by the physician, physician assistant, or any individual licensed under chapter 43-12.1, unless it is known that the information has previously been provided to the injured individual.

4. The reports mandated by this section must be made as soon as practicable and may be either oral or in writing. Oral reports must be followed by written reports within forty-eight hours if so requested by the sheriff or state's attorney to whom the oral report is originally made.

5. Any individual required to report as provided by this section who willfully fails to do so is guilty of an infraction.

6. Any individual making or not making a report in good faith pursuant to this section is immune from liability for making or not making a report.

## OHIO

***Specific requirement to report domestic violence?*** No.

***Requirement to report non-accidental or intentional injuries?*** No.

***Requirement to report injuries caused by criminal conduct?*** Yes. It is a misdemeanor for any person having knowledge that a felony has been committed to knowingly fail to report it; however, domestic violence must be noted in the patient's record but not reported.

***Additional statutes that may impact competent adult victims of domestic violence?***

Gunshot wounds, stab wounds, serious physical harm that there is reason to believe resulted from an offense of violence and second degree burns or higher must be reported. Note that domestic violence must be noted in the patient's record but not reported.

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **OHIO REV. CODE ANN. 2921.22 (WEST 2010). REPORTING FELONY; MEDICAL PERSONNEL TO REPORT GUNSHOT, STABBING, AND BURN INJURIES AND SUSPECTED DOMESTIC VIOLENCE.**

(A)(1) Except as provided in division (A)(2) of this section, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

(2) No person, knowing that a violation of division (B) of section 2913.04 of the Revised Code has been, or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.

(B) Except for conditions that are within the scope of division (E) of this section, no physician, limited practitioner, nurse, or other person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the physician, limited practitioner, nurse, or person, or any serious physical harm to persons that the physician, limited practitioner, nurse, or person knows or has reasonable cause to believe resulted from an offense of violence.

(C) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained.

(D) No person shall fail to provide upon request of the person to whom a report required by division (C) of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.

(E)(1) As used in this division, "burn injury" means any of the following:

- (a) Second or third degree burns;
- (b) Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;
- (c) Any burn injury or wound that may result in death;
- (d) Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by section 3743.01 of the Revised Code.

(2) No physician, nurse, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is inflicted by an explosion or other incendiary device or that shows evidence of having been inflicted in a violent, malicious, or criminal manner shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(3) No manager, superintendent, or other person in charge of a hospital, sanitarium, or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device or that shows evidence of having been inflicted in a violent, malicious, or criminal manner shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(4) No person who is required to report any burn injury under division (E)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the state fire marshal. The report shall comply with the uniform standard developed by the state fire marshal pursuant to division (A)(15) of section 3737.22 of the Revised Code.

(5) Anyone participating in the making of reports under division (E) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a

result of such actions. Notwithstanding section 4731.22 of the Revised Code, the physician-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under division (E) of this section.

(F)(1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, registered or licensed practical nurse, psychologist, social worker, independent social worker, social work assistant, professional clinical counselor, or professional counselor who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in section 3113.31 of the Revised Code, shall note that knowledge or belief and the basis for it in the patient's or client's records.

(2) Notwithstanding section 4731.22 of the Revised Code, the doctor-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under division (F)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.

(G) Divisions (A) and (D) of this section do not require disclosure of information, when any of the following applies:

(1) The information is privileged by reason of the relationship between attorney and client; doctor and patient; licensed psychologist or licensed school psychologist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.

(2) The information would tend to incriminate a member of the actor's immediate family.

(3) Disclosure of the information would amount to revealing a news source, privileged under section 2739.04 or 2739.12 of the Revised Code.

(4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.

(5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which

program is maintained or conducted by a hospital, clinic, person, agency, or organization certified pursuant to section 3793.06 of the Revised Code.

(6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of section 2907.02 or 2907.05 of the Revised Code or to victims of felonious sexual penetration in violation of former section 2907.12 of the Revised Code. As used in this division, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.

(H) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(I) Whoever violates division (A) or (B) of this section is guilty of failure to report a crime. Violation of division (A)(1) of this section is a misdemeanor of the fourth degree. Violation of division (A)(2) or (B) of this section is a misdemeanor of the second degree.

(J) Whoever violates division (C) or (D) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

(K)(1) Whoever negligently violates division (E) of this section is guilty of a minor misdemeanor.

(2) Whoever knowingly violates division (E) of this section is guilty of a misdemeanor of the second degree.

## OKLAHOMA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? No, however, a statute requires physicians to report domestic abuse if the victim requests it. Physicians are also required to note what they believe to be domestic abuse in the victim's medical chart and refer the victim to services for domestic abuse victims.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **OKLA. STAT. ANN. TIT. 22 § 58 (WEST 2010). MANDATORY REPORTING OF DOMESTIC ABUSE—EXCEPTIONS.**

A. Criminally injurious conduct, as defined by the Oklahoma Crime Victims Compensation Act, [FN1] which appears to be or is reported by the victim to be domestic abuse, as defined in Section 60.1 of this title, or domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, as defined in Section 644 of Title 21 of the Oklahoma Statutes, shall be reported according to the standards for reporting as set forth in subsection B of this section.

B. Any physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be domestic abuse or is reported by the victim to be domestic abuse, as defined in Section 60.1 of this title, or domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, as defined in Section 644 of Title 21 of the Oklahoma Statutes, shall not be required to report any incident of what appears to be or is reported to be domestic abuse, domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child if:

1. Committed upon the person of an adult who is over the age of eighteen (18) years; and
2. The person is not an incapacitated adult.

C. Any physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional examining, attending, or treating a victim shall be required to report any incident of what appears to be or is reported to be domestic abuse, domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, if requested to do so either orally or in writing by the victim. A report of any incident shall be promptly made orally or by telephone to the nearest law enforcement

agency in the county wherein the domestic abuse occurred or, if the location where the conduct occurred is unknown, the report shall be made to the law enforcement agency nearest to the location where the injury is treated.

D. In all cases of what appears to be or is reported to be domestic abuse, the physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be domestic abuse shall clearly and legibly document the incident and injuries observed and reported, as well as any treatment provided or prescribed.

E. In all cases of what appears to be or is reported to be domestic abuse, the physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional examining, attending or treating the victim of what appears to be domestic abuse shall refer the victim to domestic violence and victim services programs, including providing the victim with the twenty-four-hour statewide telephone communication service established by Section 18p-5 of Title 74 of the Oklahoma Statutes.

F. Every physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional making a report of domestic abuse pursuant to this section or examining a victim of domestic abuse to determine the likelihood of domestic abuse, and every hospital or related institution in which the victim of domestic abuse was examined or treated shall, upon the request of a law enforcement officer conducting a criminal investigation into the case, provide copies of the results of the examination or copies of the examination on which the report was based, and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to the investigating law enforcement officer.

## OREGON

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? Yes.*

*Requirement to report injuries caused by criminal conduct? Yes.*

*Additional statutes that may impact competent adult victims of domestic violence?*

*Injuries inflicted by a knife, gun, pistol or other deadly weapon by other than accidental means must be reported.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **ORE. REV. STAT. 146.710 (WEST 2010). DEFINITION.**

As used in ORS 146.710 to 146.780, “injury” means:

- (1) A physical injury caused by a knife, gun, pistol or other dangerous or deadly weapon; or
- (2) A serious physical injury.

#### **ORE. REV. STAT. 146.730 (WEST 2010). INVESTIGATION.**

A medical examiner or district attorney may investigate an injury whenever the injury occurred under suspicious or unknown circumstances. All authority granted to the medical examiner or district attorney by ORS 146.003 to 146.189 and 146.710 to 146.992 may be exercised in making such investigation.

#### **ORE. REV. STAT. 146.740 (WEST 2010). REPORTS BY MEDICAL EXAMINER.**

Whenever the medical examiner concludes that a crime may have been committed by any person in causing the injury, the medical examiner shall report the conclusion to the district attorney.

#### **ORE. REV. STAT. 146.750 (WEST 2010). REPORTS BY PHYSICIANS.**

(1) Except as required in subsection (3) of this section, any physician, including any intern and resident, having reasonable cause to suspect that a person brought to the physician or coming before the physician for examination, care or treatment has had injury, as defined in ORS 146.710, inflicted upon the person other than by accidental means, shall report or cause reports to be made in accordance with the provisions of subsection (2) of this section.

(2) An oral report shall be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing, to the appropriate medical examiner.

(3) When either an injury as defined in ORS 146.710 or abuse as defined in ORS 419B.005 occurs to an unmarried person who is under 18 years of age, the provisions of ORS 419B.005 to 419B.050 shall apply.

## PENNSYLVANIA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? Yes, however, domestic violence is an exception to this requirement.*

*Additional statutes that may impact competent adult victims of domestic violence?*

*Injuries caused by firearms must be reported unless they were caused by domestic violence.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **18 PA. CONS. STAT. ANN. § 5106 (WEST 2010). FAILURE TO REPORT INJURIES BY FIREARM OR CRIMINAL ACT.**

(a) Offense defined.-- Except as set forth in subsection (a.1), a physician, intern or resident, or any person conducting, managing or in charge of any hospital or pharmacy, or in charge of any ward or part of a hospital, to whom shall come or be brought any person:

(1) suffering from any wound or other injury inflicted by his own act or by the act of another which caused death or serious bodily injury, or inflicted by means of a deadly weapon as defined in section 2301 (relating to definitions); or

(2) upon whom injuries have been inflicted in violation of any penal law of this Commonwealth; commits a summary offense if the reporting party fails to report such injuries immediately, both by telephone and in writing, to the chief of police or other head of the police department of the local government, or to the Pennsylvania State Police. The report shall state the name of the injured person, if known, the injured person's whereabouts and the character and extent of the person's injuries.

(a.1) Exception.--In cases of bodily injury as defined in section 2301 (relating to definitions), failure to report under subsection (a)(2) does not constitute an offense if all of the following apply:

(1) The victim is an adult and has suffered bodily injury.

(2) The injury was inflicted by an individual who:

(i) is the current or former spouse of the victim;

(ii) is a current or former sexual or intimate partner of the victim;

(iii) shares biological parenthood with the victim; or

(iv) is or has been living as a spouse of the victim.

(3) The victim has been informed:

(i) of the duty to report under subsection (a)(2); and

(ii) that the report under subsection (a)(2) cannot be made without the victim's consent.

(4) The victim does not consent to the report under subsection (a)(2).

(5) The victim has been provided with a referral to the appropriate victim service agency such as a domestic violence or sexual assault program.

(b) Immunity granted.--No physician or other person shall be subject to civil or criminal liability by reason of complying with this section.

(c) Physician-patient privilege unavailable.--In any judicial proceeding resulting from a report pursuant to this section, the physician-patient privilege shall not apply in respect to evidence regarding such injuries or the cause thereof. This subsection shall not apply where a report is not made pursuant to subsection (a.1).

(d) Reporting of crime encouraged.--Nothing in this chapter precludes a victim from reporting the crime that resulted in injury.

(e) Availability of information.--A physician or other individual may make available information concerning domestic violence or sexual assault to any individual subject to the provisions of this chapter.

## PUERTO RICO

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? No.*

*There was a set of statutes governing "Medical Protocol to Manage Victims of Domestic Violence," but it expired in 1999 and the statutes were omitted.*

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### **PR ST T. 24 §§ 3501-3504 (WEST 2007). MEDICAL PROTOCOL TO MANAGE VICTIMS OF DOMESTIC VIOLENCE [OMITTED.]**

Omission.

These sections derived from §§ 1-5 of Act Sept. 13, 1996, No. 226, established a Pilot Program for Medical Protocol in Assisting Victims of Domestic Violence. Section 5 of Act 1996, No. 226, provided that the effectiveness of said act would be for 3 years after its approval date. These sections have been omitted as the term limit has expired.

## RHODE ISLAND

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? There is a requirement that gunshot wounds be reported.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **R.I. GEN. LAWS § 11-47-48 (WEST 2010). REPORT OF GUNSHOT WOUNDS.**

Every physician attending or treating a case of bullet wound, gunshot wound, powder burn, or any other injury arising from or caused by the discharge of a gun, pistol, or other firearm, or whenever any case is treated in a hospital, sanitarium, dispensary, or other institution the person in charge of it, shall report the case at once to the police authorities of the town or city where the physician, hospital, sanitarium, dispensary or institution is located. This section shall not apply to wounds, burns, or injuries received by any member of the armed forces of the United States or of this state while engaged in the actual performance of duty. Whoever violates any provision of this section shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100).

## SOUTH CAROLINA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? There is a requirement that gunshot wounds be reported.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **S.C. CODE ANN. § 16-3-1072 (WEST 2010). REPORTING MEDICAL TREATMENT FOR GUNSHOT WOUND; IMMUNITY; PHYSICIAN-PATIENT PRIVILEGE ABROGATED; PENALTIES.**

(A) Any physician, nurse, or any other medical or emergency medical services personnel of a hospital, clinic, or other health care facility or provider who knowingly treats any person suffering from a gunshot wound or who receives a request for such treatment shall report within a reasonable time the existence of the gunshot wound to the sheriff's department of the county in which the treatment is administered or a request is received. However, no report is necessary if a law enforcement officer is present with the victim while treatment is being administered.

(B) The reports provided for in subsection (A) may be made orally, or otherwise. A hospital, clinic, or other health care facility or provider may designate an individual to make the reports provided for in this section. However, a report must be made as soon as possible, but no later than the time of the victim's release from that facility.

(C) A person required to make a report pursuant to this section or who participates in judicial proceedings resulting from the report, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil and criminal proceedings, good faith is rebuttably presumed.

(D) For purposes of this section, the confidential or privileged nature of communication between physician and patient and any other professional person and his patient or client is abrogated and does not constitute grounds for failure to report or the exclusion of evidence resulting from a report made pursuant to this section.

(E) A person required to report the existence of a gunshot wound who knowingly fails to do so is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars.

## SOUTH DAKOTA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report bullet wounds, gunshot wounds and injuries arising from the discharge of a firearm.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **S.D. CODIFIED LAWS 23-13-10 (WEST 2010). REPORT TO SHERIFF OF GUNSHOT WOUNDS TREATED.**

Any person treating any bullet wound, gunshot wound, powder burn, or any other injury arising from or caused by the discharge of any firearm, shall report such treatment to the sheriff of the county in which the wound is treated.

## TENNESSEE

***Specific requirement to report domestic violence?*** No.

***Requirement to report non-accidental or intentional injuries?*** There is a requirement to report injuries caused by violence. Domestic violence that results in injury will generally be an injury caused by violence; therefore, this statute will generally require domestic violence to be reported.

***Requirement to report injuries caused by criminal conduct?*** No.

***Additional statutes that may impact competent adult victims of domestic violence?***

There is a requirement to report injuries caused by a knife, pistol, gun, or deadly weapon or suffering from the effects of poison or suffocation.

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **TENN. CODE ANN. § 38-1-101 (WEST 2010). HEALTH CARE PROVIDERS; CERTAIN INJURIES; REPORTS.**

(a) All hospitals, clinics, sanitariums, doctors, physicians, surgeons, nurses, pharmacists, undertakers, embalmers, or other persons called upon to tender aid to persons suffering from any wound or other injury inflicted by means of a knife, pistol, gun, or other deadly weapon, or by other means of violence, or resulting from exposure to a methamphetamine laboratory or a methamphetamine laboratory related fire, explosion, or chemical release, or suffering from the effects of poison, or suffocation, shall report the same immediately to the chief of police, if the injured person is in or brought into or the injury occurred in an incorporated town or city, or to the sheriff if the injured person is in or brought into or the injury occurred in the county outside the corporate limits of any incorporated town or city, and shall also, in either event, report the same immediately to the district attorney general or a member of the district attorney general's staff of the judicial district in which the injured person is, or has been brought into, or the injury occurred. Such report shall state the name, residence, and employer of such person, if known, such person's whereabouts at the time the report is made, the place the injury occurred, and the character and extent of such injuries.

(b) Injuries to minors that are required to be reported by § 37-1-403 are not required to be reported under this section.

## TEXAS

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report bullet and gunshot wounds. Texas has a statute that requires medical professionals to document family violence in the person's medical chart, but not report it to law enforcement.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **TEXAS HEALTH & SAFETY CODE ANN. § 161.041 (WEST 2010). MANDATORY REPORTING OF GUNSHOT WOUNDS.**

A physician who attends or treats, or who is requested to attend or treat, a bullet or gunshot wound, or the administrator, superintendent, or other person in charge of a hospital, sanatorium, or other institution in which a bullet or gunshot wound is attended or treated or in which the attention or treatment is requested, shall report the case at once to the law enforcement authority of the municipality or county in which the physician practices or in which the institution is located.

#### **TEXAS HEALTH & SAFETY CODE ANN. FAMILY CODE § 91.003 (WEST 2010). INFORMATION PROVIDED BY MEDICAL PROFESSIONALS.**

A medical professional who treats a person for injuries that the medical professional has reason to believe were caused by family violence shall:

(1) immediately provide the person with information regarding the nearest family violence shelter center;

(2) document in the person's medical file:

(A) the fact that the person has received the information provided under Subdivision (1); and

(B) the reasons for the medical professional's belief that the person's injuries were caused by family violence; and

(3) give the person a written notice in substantially the following form, completed with the required information, in both English and Spanish:

“It is a crime for any person to cause you any physical injury or harm even if that person is a member or former member of your family or household.

“NOTICE TO ADULT VICTIMS OF FAMILY VIOLENCE

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“You may report family violence to a law enforcement officer by calling the following telephone numbers: \_\_\_\_\_.

“If you, your child, or any other household resident has been injured or if you feel you are going to be in danger after a law enforcement officer investigating family violence leaves your residence or at a later time, you have the right to:

“Ask the local prosecutor to file a criminal complaint against the person committing family violence; and

“Apply to a court for an order to protect you. You may want to consult with a legal aid office, a prosecuting attorney, or a private attorney. A court can enter an order that:

“(1) prohibits the abuser from committing further acts of violence;

“(2) prohibits the abuser from threatening, harassing, or contacting you at home;

“(3) directs the abuser to leave your household; and

“(4) establishes temporary custody of the children or any property.

“A VIOLATION OF CERTAIN PROVISIONS OF COURT-ORDERED PROTECTION MAY BE A FELONY.

“CALL THE FOLLOWING VIOLENCE SHELTERS OR SOCIAL ORGANIZATIONS IF YOU NEED PROTECTION: \_\_\_\_\_.”

## UTAH

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? Yes. Yes. Domestic violence that results in injury will generally be a crime; therefore, this statute will generally require domestic violence to be reported.*

*Additional statutes that may impact competent adult victims of domestic violence?*

*There is a requirement that injuries caused a knife, gun, pistol, explosive, infernal device, or deadly weapon be reported.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **UTAH CODE ANN. § 26-23A-2 (WEST 2010). INJURY REPORTING REQUIREMENTS BY HEALTH CARE PROVIDER--CONTENTS OF REPORT.**

(1)(a) Any health care provider who treats or cares for any person who suffers from any wound or other injury inflicted by the person's own act or by the act of another by means of a knife, gun, pistol, explosive, infernal device, or deadly weapon, or by violation of any criminal statute of this state, shall immediately report to a law enforcement agency the facts regarding the injury.

(b) The report shall state the name and address of the injured person, if known, the person's whereabouts, the character and extent of the person's injuries, and the name, address, and telephone number of the person making the report.

(2) A health care provider may not be discharged, suspended, disciplined, or harassed for making a report pursuant to this section.

(3) A person may not incur any civil or criminal liability as a result of making any report required by this section.

(4) A health care provider who has personal knowledge that the report of a wound or injury has been made in compliance with this section is under no further obligation to make a report regarding that wound or injury under this section.

## VERMONT

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report gunshot wounds and injuries caused by the discharge of a firearm.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **VT. STAT. ANN. TIT. 13 § 4012 (WEST 2010). REPORTING TREATMENT OF FIREARM WOUNDS.**

(a) Every physician attending or treating a case of bullet wound, gunshot wound, powder burn, or any other injury arising from or caused by the discharge of a gun, pistol, or other firearm, or whenever such case is treated in a hospital, sanitarium or other institution, the manager, superintendent or other person in charge shall report such case at once to local law enforcement officials or the state police. The provisions of this section shall not apply to such wounds, burns or injuries received by a member of the armed forces of the United States or state of Vermont while engaged in the actual performance of duty.

(b) A person violating the provisions of this section shall be fined not more than \$100.00.

## VIRGIN ISLANDS

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report gunshot wounds and injuries caused by the discharge of a firearm.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **V.I. CODE ANN. TIT. 23 § 2478 (WEST 2007). REPORT OF TREATMENT OF WOUNDED PERSONS.**

Any physician, physician aide, or nurse treating a case of bullet wound, powder burn or any other wound arising from or caused by the discharge of a gun, revolver, pistol, or other firearm, and whenever such cases are treated in a hospital, clinic, sanitarium or other similar institution, the manager, superintendent, or other person in charge shall report such case at once to the police authorities.

## VIRGINIA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report injuries caused by guns, knives and similar weapons.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **VA. CODE ANN. § 54.1-2967 (WEST 2010). PHYSICIANS AND OTHERS RENDERING MEDICAL AID TO REPORT CERTAIN WOUNDS.**

Any physician or other person who renders any medical aid or treatment to any person for any wound which such physician or other person knows or has reason to believe is a wound inflicted by a weapon specified in § 18.2-308 and which wound such physician or other person believes or has reason to believe was not self-inflicted shall as soon as practicable report such fact, including the wounded person's name and address, if known, to the sheriff or chief of police of the county or city in which treatment is rendered. If such medical aid or treatment is rendered in a hospital or similar institution, such physician or other person rendering such medical aid or treatment shall immediately notify the person in charge of such hospital or similar institution, who shall make such report forthwith.

Any physician or other person failing to comply with this section shall be guilty of a Class 3 misdemeanor. Any person participating in the making of a report pursuant to this section or participating in a judicial proceeding resulting therefrom shall be immune from any civil liability in connection therewith, unless it is proved that such person acted in bad faith or with malicious intent.

## WASHINGTON

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report bullet wounds, gunshot wounds, and stab wounds.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **WASH. REV. CODE 70.41.440 (WEST 2010). DUTY TO REPORT VIOLENT INJURIES-- PRESERVATION OF EVIDENCE--IMMUNITY—PRIVILEGE.**

(1) A hospital shall report to a local law enforcement authority as soon as reasonably possible, taking into consideration a patient's emergency care needs, when the hospital provides treatment for a bullet wound, gunshot wound, or stab wound to a patient who is unconscious. A hospital shall establish a written policy to identify the person or persons responsible for making the report.

(2) The report required under subsection (1) of this section must include the following information, if known:

(a) The name, residence, sex, and age of the patient;

(b) Whether the patient has received a bullet wound, gunshot wound, or stab wound; and

(c) The name of the health care provider providing treatment for the bullet wound, gunshot wound, or stab wound.

(3) Nothing in this section shall limit a person's duty to report under RCW 26.44.030 or 74.34.035.

(4) Any bullets, clothing, or other foreign objects that are removed from a patient for whom a hospital is required to make a report pursuant to subsection (1) of this section shall be preserved and kept in custody in such a way that the identity and integrity thereof are reasonably maintained until the bullets, clothing, or other foreign objects are taken into possession by a law enforcement authority or the hospital's normal period for retention of such items expires, whichever occurs first.

(5) Any hospital or person who in good faith, and without gross negligence or willful or wanton misconduct, makes a report required by this section, cooperates in an investigation or criminal or judicial proceeding related to such report, or maintains bullets, clothing, or

other foreign objects, or provides such items to a law enforcement authority as described in subsection (4) of this section, is immune from civil or criminal liability or professional licensure action arising out of or related to the report and its contents or the absence of information in the report, cooperation in an investigation or criminal or judicial proceeding, and the maintenance or provision to a law enforcement authority of bullets, clothing, or other foreign objects under subsection (4) of this section.

(6) The physician-patient privilege described in RCW 5.60.060(4), the registered nurse-patient privilege described in RCW 5.62.020, and any other health care provider-patient privilege created or recognized by law are not a basis for excluding as evidence in any criminal proceeding any report, or information contained in a report made under this section.

(7) All reporting, preservation, or other requirements of this section are secondary to patient care needs and may be delayed or compromised without penalty to the hospital or person required to fulfill the requirements of this section.

## WEST VIRGINIA

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report gunshot and stab wounds that a reasonable person would believe resulted from a violation of the criminal laws of the state.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **W. VA. CODE ANN. § 61-2-27 (WEST 2010). REQUIRED REPORTING OF GUNSHOT AND OTHER WOUNDS**

(a) Any medical provider who provides medical treatment to a person suffering from a wound caused by a gunshot or a knife or other sharp or pointed instrument, under circumstances which would lead a reasonable person to believe resulted from a violation of the criminal laws of this state, shall report the same to a law-enforcement agency located within the county within which such wound is treated. The report shall be made initially by telephone and shall be followed by a written report delivered to such agency within forty-eight hours following the initial report: Provided, That where two or more persons participate in the medical treatment of such wound, the obligation to report imposed by this section shall apply only to the attending physician or, if none, to the person primarily responsible for providing the medical treatment.

(b) Any medical provider person who in good faith reports a wound described in subsection (a) of this section shall be immune from any civil liability which may otherwise result solely from reporting the same.

## WISCONSIN

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? It is mandatory to report gunshot wounds and certain burns.*

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### REPORTING STATUTES WHICH MAY IMPACT DOMESTIC VIOLENCE VICTIMS

#### **WIS. STAT. ANN. 255.40 (WEST 2010). REPORTING OF WOUNDS AND BURN INJURIES.**

(1) In this section:

(a) "Crime" has the meaning specified in s. 949.01(1).

(b) "Inpatient health care facility" has the meaning specified in s. 50.135(1).

(2)(a) Any person licensed, certified or registered by the state under ch. 441, 448 or 455 who treats a patient suffering from any of the following shall report in accordance with par. (b):

1. A gunshot wound.

2. Any wound other than a gunshot wound if the person has reasonable cause to believe that the wound occurred as a result of a crime.

3. Second-degree or 3rd-degree burns to at least 5% of the patient's body or, due to the inhalation of superheated air, swelling of the patient's larynx or a burn to the patient's upper respiratory tract, if the person has reasonable cause to believe that the burn occurred as a result of a crime.

(b) For any mandatory report under par. (a), the person shall report the patient's name and the type of wound or burn injury involved as soon as reasonably possible to the local police department or county sheriff's office for the area where the treatment is rendered.

(c) Any such person who intentionally fails to report as required under this subsection may be required to forfeit not more than \$500.

(3) Any person reporting in good faith under sub. (2), and any inpatient health care facility that employs the person who reports, are immune from all civil and criminal liability that

may result because of the report. In any proceeding, the good faith of any person reporting under this section shall be presumed.

(4) The reporting requirement under sub. (2) does not apply under any of the following circumstances:

(a) The patient is accompanied by a law enforcement officer at the time treatment is rendered.

(b) The patient's name and type of wound or burn injury have been previously reported under sub. (2).

(c) The wound is a gunshot wound and appears to have occurred at least 30 days prior to the time of treatment.

## WYOMING

*Specific requirement to report domestic violence? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of domestic violence? No.*

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## FEDERAL LAW

### **45 C.F.R. §§ 160 – 164 The Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

- Provides extensive privacy rights to patients' medical information and records
- Federal law preempts state law unless state law is more restrictive
- General Rule – A covered entity may not use or disclose protected health information, except as permitted or required by the regulation
- Some circumstances when covered entities may disclose protected health information include:
  - With written authorization or after giving patient opportunity to agree or object (*See* 45 CFR §§ 164.508, 164.510)
  - For law enforcement purposes (*See* 45 CFR § 164.512(f))
  - Disclosure of abuse, neglect, domestic violence (*See* 45 CFR § 164.512(c))

### **45 C.F.R. § 164.512 (WEST 2010). USES AND DISCLOSURES FOR WHICH AN AUTHORIZATION OR OPPORTUNITY TO AGREE OR OBJECT IS NOT REQUIRED.**

A covered entity may use or disclose protected health information without the written authorization of the individual, as described in § 164.508, or the opportunity for the individual to agree or object as described in § 164.510, in the situations covered by this section, subject to the applicable requirements of this section. When the covered entity is required by this section to inform the individual of, or when the individual may agree to, a use or disclosure permitted by this section, the covered entity's information and the individual's agreement may be given orally.

(a) Standard: Uses and disclosures required by law.

(1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

(2) A covered entity must meet the requirements described in paragraph (c), (e), or (f) of this section for uses or disclosures required by law.

(b) Standard: uses and disclosures for public health activities.

(1) Permitted disclosures. A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph to:

(i) A public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not

limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority;

(ii) A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect;

(iii) A person subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA-regulated product or activity for which that person has responsibility, for the purpose of activities related to the quality, safety or effectiveness of such FDA-regulated product or activity. Such purposes include:

(A) To collect or report adverse events (or similar activities with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations;

(B) To track FDA-regulated products;

(C) To enable product recalls, repairs, or replacement, or lookback (including locating and notifying individuals who have received products that have been recalled, withdrawn, or are the subject of lookback); or

(D) To conduct post marketing surveillance;

(iv) A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if the covered entity or public health authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation; or

(v) An employer, about an individual who is a member of the workforce of the employer, if:

(A) The covered entity is a covered health care provider who is a member of the workforce of such employer or who provides health care to the individual at the request of the employer:

(1) To conduct an evaluation relating to medical surveillance of the workplace; or

(2) To evaluate whether the individual has a work-related illness or injury;

(B) The protected health information that is disclosed consists of findings concerning a work-related illness or injury or a workplace-related medical surveillance;

(C) The employer needs such findings in order to comply with its obligations, under 29 CFR

parts 1904 through 1928, 30 CFR parts 50 through 90, or under state law having a similar purpose, to record such illness or injury or to carry out responsibilities for workplace medical surveillance; and

(D) The covered health care provider provides written notice to the individual that protected health information relating to the medical surveillance of the workplace and work-related illnesses and injuries is disclosed to the employer:

(1) By giving a copy of the notice to the individual at the time the health care is provided; or

(2) If the health care is provided on the work site of the employer, by posting the notice in a prominent place at the location where the health care is provided.

(2) Permitted uses. If the covered entity also is a public health authority, the covered entity is permitted to use protected health information in all cases in which it is permitted to disclose such information for public health activities under paragraph (b)(1) of this section.

(c) Standard: Disclosures about victims of abuse, neglect or domestic violence.

(1) Permitted disclosures. Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, a covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:

(i) To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;

(ii) If the individual agrees to the disclosure; or

(iii) To the extent the disclosure is expressly authorized by statute or regulation and:

(A) The covered entity, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or

(B) If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the protected health information for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.

(2) Informing the individual. A covered entity that makes a disclosure permitted by

paragraph (c)(1) of this section must promptly inform the individual that such a report has been or will be made, except if:

(i) The covered entity, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm; or

(ii) The covered entity would be informing a personal representative, and the covered entity reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

(d) Standard: Uses and disclosures for health oversight activities.

(1) Permitted disclosures. A covered entity may disclose protected health information to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:

(i) The health care system;

(ii) Government benefit programs for which health information is relevant to beneficiary eligibility;

(iii) Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or

(iv) Entities subject to civil rights laws for which health information is necessary for determining compliance.

(2) Exception to health oversight activities. For the purpose of the disclosures permitted by paragraph (d)(1) of this section, a health oversight activity does not include an investigation or other activity in which the individual is the subject of the investigation or activity and such investigation or other activity does not arise out of and is not directly related to:

(i) The receipt of health care;

(ii) A claim for public benefits related to health; or

(iii) Qualification for, or receipt of, public benefits or services when a patient's health is integral to the claim for public benefits or services.

(3) Joint activities or investigations. Notwithstanding paragraph (d)(2) of this section, if a

health oversight activity or investigation is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits not related to health, the joint activity or investigation is considered a health oversight activity for purposes of paragraph (d) of this section.

(4) Permitted uses. If a covered entity also is a health oversight agency, the covered entity may use protected health information for health oversight activities as permitted by paragraph (d) of this section.

(e) Standard: Disclosures for judicial and administrative proceedings.

(1) Permitted disclosures. A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:

(i) In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order; or

(ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

(A) The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or

(B) The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iv) of this section, from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order that meets the requirements of paragraph (e)(1)(v) of this section.

(iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protecting health information if the covered entity receives from such party a written statement and accompanying documentation demonstrating that:

(A) The party requesting such information has made a good faith attempt to provide written notice to the individual (or, if the individual's location is unknown, to mail a notice to the individual's last known address);

(B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and

(C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:

(1) No objections were filed; or

(2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

(iv) For the purposes of paragraph (e)(1)(ii)(B) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information, if the covered entity receives from such party a written statement and accompanying documentation demonstrating that:

(A) The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or

(B) The party seeking the protected health information has requested a qualified protective order from such court or administrative tribunal.

(v) For purposes of paragraph (e)(1) of this section, a qualified protective order means, with respect to protected health information requested under paragraph (e)(1)(ii) of this section, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

(A) Prohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested; and

(B) Requires the return to the covered entity or destruction of the protected health information (including all copies made) at the end of the litigation or proceeding.

(vi) Notwithstanding paragraph (e)(1)(ii) of this section, a covered entity may disclose protected health information in response to lawful process described in paragraph (e)(1)(ii) of this section without receiving satisfactory assurance under paragraph (e)(1)(ii)(A) or (B) of this section, if the covered entity makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of paragraph (e)(1)(iii) of this section or to seek a qualified protective order sufficient to meet the requirements of paragraph (e)(1)(iv) of this section.

(2) Other uses and disclosures under this section. The provisions of this paragraph do not supersede other provisions of this section that otherwise permit or restrict uses or disclosures of protected health information.

(f) Standard: Disclosures for law enforcement purposes. A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.

(1) Permitted disclosures: Pursuant to process and as otherwise required by law. A covered entity may disclose protected health information:

(i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section; or

(ii) In compliance with and as limited by the relevant requirements of:

(A) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;

(B) A grand jury subpoena; or

(C) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:

(1) The information sought is relevant and material to a legitimate law enforcement inquiry;

(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and

(3) De-identified information could not reasonably be used.

(2) Permitted disclosures: Limited information for identification and location purposes. Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:

(i) The covered entity may disclose only the following information:

(A) Name and address;

(B) Date and place of birth;

(C) Social security number;

(D) ABO blood type and rh factor;

(E) Type of injury;

(F) Date and time of treatment;

(G) Date and time of death, if applicable; and

(H) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

(ii) Except as permitted by paragraph (f)(2)(i) of this section, the covered entity may not disclose for the purposes of identification or location under paragraph (f)(2) of this section any protected health information related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.

(3) Permitted disclosure: Victims of a crime. Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures that are subject to paragraph (b) or (c) of this section, if:

(i) The individual agrees to the disclosure; or

(ii) The covered entity is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that:

(A) The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;

(B) The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and

(C) The disclosure is in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

(4) Permitted disclosure: Decedents. A covered entity may disclose protected health information about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if the covered entity has a suspicion that such death may have resulted from criminal conduct.

(5) Permitted disclosure: Crime on premises. A covered entity may disclose to a law enforcement official protected health information that the covered entity believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the covered entity.

(6) Permitted disclosure: Reporting crime in emergencies.

(i) A covered health care provider providing emergency health care in response to a medical emergency, other than such emergency on the premises of the covered health care provider, may disclose protected health information to a law enforcement official if such disclosure appears necessary to alert law enforcement to:

(A) The commission and nature of a crime;

(B) The location of such crime or of the victim(s) of such crime; and

(C) The identity, description, and location of the perpetrator of such crime.

(ii) If a covered health care provider believes that the medical emergency described in paragraph (f)(6)(i) of this section is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, paragraph (f)(6)(i) of this section does not apply and any disclosure to a law enforcement official for law enforcement purposes is subject to paragraph (c) of this section.

(g) Standard: Uses and disclosures about decedents.

(1) Coroners and medical examiners. A covered entity may disclose protected health information to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law. A covered entity that also performs the duties of a coroner or medical examiner may use protected health information for the purposes described in this paragraph.

(2) Funeral directors. A covered entity may disclose protected health information to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent. If necessary for funeral directors to carry out their duties, the covered entity may disclose the protected health information prior to, and in reasonable anticipation of, the individual's death.

(h) Standard: Uses and disclosures for cadaveric organ, eye or tissue donation purposes. A covered entity may use or disclose protected health information to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissue for the purpose of facilitating organ, eye or tissue donation and transplantation.

(i) Standard: Uses and disclosures for research purposes.

(1) Permitted uses and disclosures. A covered entity may use or disclose protected health information for research, regardless of the source of funding of the research, provided that:

(i) Board approval of a waiver of authorization. The covered entity obtains documentation that an alteration to or waiver, in whole or in part, of the individual authorization required by § 164.508 for use or disclosure of protected health information has been approved by either:

(A) An Institutional Review Board (IRB), established in accordance with 7 CFR 1c.107, 10 CFR 745.107, 14 CFR 1230.107, 15 CFR 27.107, 16 CFR 1028.107, 21 CFR 56.107, 22 CFR 225.107, 24 CFR 60.107, 28 CFR 46.107, 32 CFR 219.107, 34 CFR 97.107, 38 CFR 16.107, 40 CFR 26.107, 45 CFR 46.107, 45 CFR 690.107, or 49 CFR 11.107; or

(B) A privacy board that:

(1) Has members with varying backgrounds and appropriate professional competency as necessary to review the effect of the research protocol on the individual's privacy rights and related interests;

(2) Includes at least one member who is not affiliated with the covered entity, not affiliated with any entity conducting or sponsoring the research, and not related to any person who is affiliated with any of such entities; and

(3) Does not have any member participating in a review of any project in which the member has a conflict of interest.

(ii) Reviews preparatory to research. The covered entity obtains from the researcher representations that:

(A) Use or disclosure is sought solely to review protected health information as necessary to prepare a research protocol or for similar purposes preparatory to research;

(B) No protected health information is to be removed from the covered entity by the researcher in the course of the review; and

(C) The protected health information for which use or access is sought is necessary for the research purposes.

(iii) Research on decedent's information. The covered entity obtains from the researcher:

(A) Representation that the use or disclosure sought is solely for research on the protected

health information of decedents;

(B) Documentation, at the request of the covered entity, of the death of such individuals; and

(C) Representation that the protected health information for which use or disclosure is sought is necessary for the research purposes.

(2) Documentation of waiver approval. For a use or disclosure to be permitted based on documentation of approval of an alteration or waiver, under paragraph (i)(1)(i) of this section, the documentation must include all of the following:

(i) Identification and date of action. A statement identifying the IRB or privacy board and the date on which the alteration or waiver of authorization was approved;

(ii) Waiver criteria. A statement that the IRB or privacy board has determined that the alteration or waiver, in whole or in part, of authorization satisfies the following criteria:

(A) The use or disclosure of protected health information involves no more than a minimal risk to the privacy of individuals, based on, at least, the presence of the following elements;

(1) An adequate plan to protect the identifiers from improper use and disclosure;

(2) An adequate plan to destroy the identifiers at the earliest opportunity consistent with conduct of the research, unless there is a health or research justification for retaining the identifiers or such retention is otherwise required by law; and

(3) Adequate written assurances that the protected health information will not be reused or disclosed to any other person or entity, except as required by law, for authorized oversight of the research study, or for other research for which the use or disclosure of protected health information would be permitted by this subpart;

(B) The research could not practicably be conducted without the waiver or alteration; and

(C) The research could not practicably be conducted without access to and use of the protected health information.

(iii) Protected health information needed. A brief description of the protected health information for which use or access has been determined to be necessary by the IRB or privacy board has determined, pursuant to paragraph (i)(2)(ii)(C) of this section;

(iv) Review and approval procedures. A statement that the alteration or waiver of authorization has been reviewed and approved under either normal or expedited review procedures, as follows:

(A) An IRB must follow the requirements of the Common Rule, including the normal review procedures (7 CFR 1c.108(b), 10 CFR 745.108(b), 14 CFR 1230.108(b), 15 CFR 27.108(b), 16 CFR 1028.108(b), 21 CFR 56.108(b), 22 CFR 225.108(b), 24 CFR 60.108(b), 28 CFR 46.108(b), 32 CFR 219.108(b), 34 CFR 97.108(b), 38 CFR 16.108(b), 40 CFR 26.108(b), 45 CFR 46.108(b), 45 CFR 690.108(b), or 49 CFR 11.108(b)) or the expedited review procedures (7 CFR 1c.110, 10 CFR 745.110, 14 CFR 1230.110, 15 CFR 27.110, 16 CFR 1028.110, 21 CFR 56.110, 22 CFR 225.110, 24 CFR 60.110, 28 CFR 46.110, 32 CFR 219.110, 34 CFR 97.110, 38 CFR 16.110, 40 CFR 26.110, 45 CFR 46.110, 45 CFR 690.110, or 49 CFR 11.110);

(B) A privacy board must review the proposed research at convened meetings at which a majority of the privacy board members are present, including at least one member who satisfies the criterion stated in paragraph (i)(1)(i)(B)(2) of this section, and the alteration or waiver of authorization must be approved by the majority of the privacy board members present at the meeting, unless the privacy board elects to use an expedited review procedure in accordance with paragraph (i)(2)(iv)(C) of this section;

(C) A privacy board may use an expedited review procedure if the research involves no more than minimal risk to the privacy of the individuals who are the subject of the protected health information for which use or disclosure is being sought. If the privacy board elects to use an expedited review procedure, the review and approval of the alteration or waiver of authorization may be carried out by the chair of the privacy board, or by one or more members of the privacy board as designated by the chair; and

(v) Required signature. The documentation of the alteration or waiver of authorization must be signed by the chair or other member, as designated by the chair, of the IRB or the privacy board, as applicable.

(j) Standard: Uses and disclosures to avert a serious threat to health or safety.

(1) Permitted disclosures. A covered entity may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if the covered entity, in good faith, believes the use or disclosure:

(i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and

(B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or

(ii) Is necessary for law enforcement authorities to identify or apprehend an individual:

(A) Because of a statement by an individual admitting participation in a violent crime that

the covered entity reasonably believes may have caused serious physical harm to the victim; or

(B) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, as those terms are defined in § 164.501.

(2) Use or disclosure not permitted. A use or disclosure pursuant to paragraph (j)(1)(ii)(A) of this section may not be made if the information described in paragraph (j)(1)(ii)(A) of this section is learned by the covered entity:

(i) In the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure under paragraph (j)(1)(ii)(A) of this section, or counseling or therapy; or

(ii) Through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy described in paragraph (j)(2)(i) of this section.

(3) Limit on information that may be disclosed. A disclosure made pursuant to paragraph (j)(1)(ii)(A) of this section shall contain only the statement described in paragraph (j)(1)(ii)(A) of this section and the protected health information described in paragraph (f)(2)(i) of this section.

(4) Presumption of good faith belief. A covered entity that uses or discloses protected health information pursuant to paragraph (j)(1) of this section is presumed to have acted in good faith with regard to a belief described in paragraph (j)(1)(i) or (ii) of this section, if the belief is based upon the covered entity's actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority.

(k) Standard: Uses and disclosures for specialized government functions.

(1) Military and veterans activities.

(i) Armed Forces personnel. A covered entity may use and disclose the protected health information of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, if the appropriate military authority has published by notice in the Federal Register the following information:

(A) Appropriate military command authorities; and

(B) The purposes for which the protected health information may be used or disclosed.

(ii) Separation or discharge from military service. A covered entity that is a component of the Departments of Defense or Transportation may disclose to the Department of Veterans

Affairs (DVA) the protected health information of an individual who is a member of the Armed Forces upon the separation or discharge of the individual from military service for the purpose of a determination by DVA of the individual's eligibility for or entitlement to benefits under laws administered by the Secretary of Veterans Affairs.

(iii) Veterans. A covered entity that is a component of the Department of Veterans Affairs may use and disclose protected health information to components of the Department that determine eligibility for or entitlement to, or that provide, benefits under the laws administered by the Secretary of Veterans Affairs.

(iv) Foreign military personnel. A covered entity may use and disclose the protected health information of individuals who are foreign military personnel to their appropriate foreign military authority for the same purposes for which uses and disclosures are permitted for Armed Forces personnel under the notice published in the Federal Register pursuant to paragraph (k)(1)(i) of this section.

(2) National security and intelligence activities. A covered entity may disclose protected health information to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act (50 U.S.C. 401, et seq.) and implementing authority (e.g., Executive Order 12333).

(3) Protective services for the President and others. A covered entity may disclose protected health information to authorized federal officials for the provision of protective services to the President or other persons authorized by 18 U.S.C. 3056, or to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or to for the conduct of investigations authorized by 18 U.S.C. 871 and 879.

(4) Medical suitability determinations. A covered entity that is a component of the Department of State may use protected health information to make medical suitability determinations and may disclose whether or not the individual was determined to be medically suitable to the officials in the Department of State who need access to such information for the following purposes:

(i) For the purpose of a required security clearance conducted pursuant to Executive Orders 10450 and 12698;

(ii) As necessary to determine worldwide availability or availability for mandatory service abroad under sections 101(a)(4) and 504 of the Foreign Service Act; or

(iii) For a family to accompany a Foreign Service member abroad, consistent with section 101(b)(5) and 904 of the Foreign Service Act.

(5) Correctional institutions and other law enforcement custodial situations.

(i) Permitted disclosures. A covered entity may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual protected health information about such inmate or individual, if the correctional institution or such law enforcement official represents that such protected health information is necessary for:

(A) The provision of health care to such individuals;

(B) The health and safety of such individual or other inmates;

(C) The health and safety of the officers or employees of or others at the correctional institution;

(D) The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;

(E) Law enforcement on the premises of the correctional institution; and

(F) The administration and maintenance of the safety, security, and good order of the correctional institution.

(ii) Permitted uses. A covered entity that is a correctional institution may use protected health information of individuals who are inmates for any purpose for which such protected health information may be disclosed.

(iii) No application after release. For the purposes of this provision, an individual is no longer an inmate when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.

(6) Covered entities that are government programs providing public benefits.

(i) A health plan that is a government program providing public benefits may disclose protected health information relating to eligibility for or enrollment in the health plan to another agency administering a government program providing public benefits if the sharing of eligibility or enrollment information among such government agencies or the maintenance of such information in a single or combined data system accessible to all such government agencies is required or expressly authorized by statute or regulation.

(ii) A covered entity that is a government agency administering a government program providing public benefits may disclose protected health information relating to the program to another covered entity that is a government agency administering a government program providing public benefits if the programs serve the same or similar populations and the disclosure of protected health information is necessary to coordinate

the covered functions of such programs or to improve administration and management relating to the covered functions of such programs.

(l) Standard: Disclosures for workers' compensation. A covered entity may disclose protected health information as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.