



When Consensual Sexual Intercourse is Deemed Child Abuse in California **

1. If a minor has consensual sexual intercourse with an older (or younger) partner, *must* mandated reporters make a child abuse report?

Age of Partner →	12	13	14	15	16	17	18	19	20	21	22
Age of Patient ↓											
11	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
12	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
13	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
14	Y	Y	N	N	N	N	N	N	N	Y	Y
15	Y	Y	N	N	N	N	N	N	N	Y	Y
16	Y	Y	N	N	N	N	N	N	N	N	N
17	Y	Y	N	N	N	N	N	N	N	N	N
18	Y	Y	N	N	N	N	N	N	N	N	N
19	Y	Y	N	N	N	N	N	N	N	N	N

Chart by David Knopf, LCSW, UCSF.

KEY: **Y** = Yes, report required based solely on age difference between partner and patient.
N = No, report not required based solely on age. Reporter only must report if he or she has a reasonable suspicion of abuse, -- for example, that activity was not consensual.

2. Do I have a duty to try to ascertain the age of a minor’s sexual partner for the purpose of child abuse reporting?

No statute or case obligates health care practitioners who are mandated reporters of abuse to ask their minor patients about the age of the minors’ sexual partners for the purpose of reporting abuse. Rather case law states that providers should ask questions as in the ordinary course of providing care according to standards prevailing in the medical profession. Thus, a provider’s professional judgment determines his practice. *People ex rel. Eicheberger v. Stockton Pregnancy Control Medical Clinic, Inc.*, 249 Cal. Rptr. 762, 769 (3rd Dist. Ct. App. 1988).

3. My client claims the sexual activity was consensual. How do I know if it truly was consensual?

In determining whether an act truly was consensual or whether additional facts give rise to a suspicion of child abuse, treating professionals should “evaluate facts known to them in light of their training and experience to determine whether they have an objectively reasonable suspicion of child abuse.” *People ex rel. Eicheberger v. Stockton Pregnancy Control Medical Clinic, Inc.*, 249 Cal. Rptr. 762, 769 (3rd Dist. Ct. App. 1988). If a reporter has a reasonable suspicion that sexual activity was coerced, the reporter must make a child abuse report, irrespective of claimed consent.

**This worksheet addresses reporting of consensual sexual intercourse. It is not a complete review of all California sexual abuse reporting requirements.