

Unborn reports

Information for child protection practitioners

November 2024

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About this fact sheet

This factsheet provides information for child protection practitioners who receive and manage unborn reports. Additional details about practice, policy and procedures related to unborn reports can be obtained via the [Child protection manual](#).

An unborn report is a report about a child who is not yet born.

The factsheet draws on current legislation and policy. It provides practitioners with useful practice guidance.

What the law says

Section 29 of the *Children, Youth and Families Act 2005* (CYFA) allows a person to make an unborn report to the Secretary. The person making the report must have a significant concern for the wellbeing of a child after the child's birth.

An unborn report can be made at any time during a woman's pregnancy.

It provides an opportunity to offer support to the expectant mother. This includes providing advice and assistance.

The CYFA sets out the responses available to the Secretary when an unborn report is made under s. 29.

These are:

- section 30 (a): provide advice to the person who made the report
- section 30 (b): provide advice and assistance to the mother of the unborn child
- section 30 (c): refer the matter to a community-based child and family service or a service agency to provide advice, services and support to the mother of the unborn child.

Consultation with the Aboriginal Child Specialist and Support Service

Child protection must have meaningful regard for the rights of Aboriginal and Torres Strait Islander children, families and communities to self-determination.

This is set out in the Statement of Recognition Act and associated legislative amendments.

If either parent or unborn child is Aboriginal or Torres Strait Islander, you must consult with the Aboriginal Child Specialist and Support Service (ACSASS).

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This consultation aims to give the expectant mother and unborn child culturally safe and appropriate support through an Aboriginal community-controlled organisation (ACCO). No consent is needed for this consultation to occur.

An ACCO can engage with the expectant mother without any further role for child protection during the pregnancy.

If the person making the unborn report does not know if the unborn child is Aboriginal or Torres Strait Islander, you should document the unborn child's status as 'under assessment' until such time as this can be verified.

Consent from the expectant mother

Child protection assesses unborn reports when they are received. If the outcome of this assessment is to provide advice and assistance, you should inform the expectant mother of the report. In the case of an Aboriginal family, consideration should be given in the consultation with ACSASS, about who is best placed to have this initial conversation with her (ACSASS or child protection).

Child protection must seek and obtain the expectant mother's consent to provide advice and assistance during her pregnancy. In the case of an Aboriginal family, consideration should be given in the consultation with ACSASS as to who is best placed to speak with her about consent. It is important to reflect on the continued effects of colonisation and dispossession on Aboriginal communities which may compromise her capacity to provide free and informed consent if contacted by child protection in the first instance.

This applies to all child protection practitioners, including those working within community-based teams.

If the expectant mother has other children subject to protective intervention or children's court orders, child protection must still seek (and obtain) her consent to provide her with advice and assistance in relation to the unborn report. It is important to inform her of her right to access independent advice and advocacy from a legal service.

If the expectant mother does not consent to child protection providing voluntary advice and assistance, you must document this on the unborn file and progress the report to closure.

If the expectant mother is identified as a victim survivor of family violence, child protection is legally required to undertake a MARAM assessment. This includes providing referrals or safety planning to ensure her safety.

If either parent or unborn child is identified as Aboriginal or Torres Strait Islander, child protection must consult with ACSASS. This consultation must occur throughout the period of involvement in the unborn phase. The mother should be given culturally appropriate supports and referrals. The mother's consent is not required to consult with ACSASS, but engagement with supports is voluntary.

Victim survivors of family violence

Pregnancy is a time of increased risk of women experiencing violence from an intimate partner.

If violence is already present in a relationship, it is likely to increase in severity during the pregnancy and the first months after birth.

If the expectant mother is identified as a victim survivor of family violence, child protection must undertake a **MARAM assessment and safety plan**. Identifying the presence of family violence includes any historical family violence incidents. It also includes when the unborn child's father or mother's partner has previously used, or is suspected of using, family violence.

Child protection will document the MARAM assessment and safety planning/referrals in CRIS. However, the focus of the MARAM assessment and safety planning remains on the adult victim survivor.

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If there are older children or siblings in the unborn child's family, a MARAM assessment should include them as child victim survivors in their own right.

Advice and assistance

When talking to the expectant mother, first tell her that a report has been made by someone who has concerns for the wellbeing of her child on its birth.

Explain that her engagement with child protection during pregnancy is voluntary and advise her of her right to access independent advice and advocacy from a legal service. Child protection's role at this time is to provide the expectant mother with support and assistance.

This is different to the role of child protection practitioners working with children who are already born. In these cases, child protection has a statutory mandate to investigate.

If the expectant mother understands this difference, she may be more likely to accept voluntary advice and engagement with support services.

This is a unique opportunity to proactively engage, motivate and support the expectant mother to access services.

It is a time when she may be most open to making positive changes in her life.

Accepting support during pregnancy may also reduce the likelihood of a statutory intervention by child protection once the baby is born.

If family violence is identified, child protection **must** carry out a MARAM assessment for the adult victim survivor, even if the unborn report is expected to close.

Information-seeking and sharing

There are several pathways for sharing information if relevant thresholds are met.

These include via provisions in the:

- *Children, Youth and Families Act 2005*
- Child Information Sharing Scheme (CISS), *Child Wellbeing and Safety Act 2005* (CWSA)
- Family Violence Information Sharing Scheme (FVISS), *Family Violence Protection Act 2008*.

If child protection assesses that the report only requires advice to the reporter before closure, there is no requirement to seek or obtain the mother's consent.

Child protection may also request relevant information from services to properly understand the circumstances of the expectant mother and unborn.

This can also be done without seeking consent.

However, the information requested must only be for the purpose of determining the course of action to take in response to the report. This includes the advice or assistance to offer the expectant mother and how to advise the reporter.

This process ceases when child protection contacts the expectant mother.

If the outcome of the report is a decision to offer advice and support, child protection (or ACSASS if this is determined to be more appropriate at the time of the consultation) will contact the expectant mother. At this point, she may provide or decline consent. Her decision will inform the next steps.

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Child protection may disclose information to a prescribed information-sharing entity (ISE)¹ to promote the safety and wellbeing of the unborn child.

However, this must be reasonable and necessary for that entity (for example, a hospital) to carry out its duties or functions (s. 41V, CWSA). For example, it would include disclosing an expectant mother's substance use so clinicians can plan for the safe delivery of the child.

When child protection is already working with the family

If you become aware that a parent you are already working with is pregnant, talk to your supervisor or practice leader about whether an unborn report is required.

In the case of Aboriginal parents and unborn, this decision should be made in consultation with ACSASS.

Remember that if you are working with an expectant mother in relation to other children (even when there is a court order in place for those children), the legislation related to unborn reports still requires you to seek the mother's consent for child protection to remain involved with the unborn.

A new pregnancy in a family is a significant event. You should update the essential information categories (EICs) and review the risk assessment for existing child clients. You should also consider how this change in circumstance might increase or decrease the risk to them.

If siblings are involved with child protection or subject to legal processes, consider who is the best person to provide voluntary support to the mother of the unborn child. Consideration should be given to the statutory nature of the intervention with her older children and the significant power imbalance that exists; she may feel unable to decline 'voluntary' support following the unborn report, particularly if her older children are subject to legal interventions or have been placed outside of her care.

In this circumstance, consider whether one of their options would be more appropriate:

- a referral to a community child and family service for this voluntary support
- talking to the community-based child protection team about whether they can provide the support and advice to the mother during pregnancy.

When the expectant mother is a current child protection client

Use the above guidance for advice when child protection is already working with the family.

In addition:

- update the EICs and review the risk assessment for the expectant mother (child protection client)
- if there is evidence the pregnancy occurred when the expectant mother was under the age of 16, and/or if there is evidence that the pregnancy is the result of a crime, consult with SOCIT, Victoria Police
- review CIMS policy and discuss with your supervisor whether you need to complete a [CIMS incident report](#).²

For detailed procedural and policy guidance, visit the [Child protection manual](#)³ and enter search term 'unborn'.

¹ [List of ISEs can be found here](https://www.vic.gov.au/information-sharing-entity-list) <<https://www.vic.gov.au/information-sharing-entity-list>>

² <<https://providers.dffh.vic.gov.au/cims#CimsReview>>

³ <<https://www.cpmanual.vic.gov.au/>>

Independent advice and advocacy for parents

At the point of first contact with an expectant mother in relation to an unborn report (and on subsequent contacts as required), the child protection practitioner should:

- advise the mother and other parent (if applicable) of their right to access independent advice and advocacy from a legal service in relation to the unborn report, and
- provide contact information, or
- with the mother's consent, make a direct referral to a legal service.

Legal service contacts:

- Victoria Legal Aid, phone 1300 792 387 or [email <mailto:childprotectionreferrals@vla.vic.gov.au>](mailto:childprotectionreferrals@vla.vic.gov.au)
- Djirra (First Nations women), phone 1800 105 30 or [email <info.afvls@djirra.org.au>](mailto:info.afvls@djirra.org.au)
- Victorian Aboriginal Legal Service (First Nations clients), phone 1800 064 865 or [email <mailto:familyadmin@vals.org.au>](mailto:familyadmin@vals.org.au).

To receive this document in another format, [email the department's OPP Directorate <OPP.Director@dfmh.vic.gov.au>](mailto:OPP.Director@dfmh.vic.gov.au).

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In this document, 'Aboriginal' refers to both Aboriginal and Torres Strait Islander people. 'Indigenous' or 'Koori/Koorie' is retained when part of the title of a report, program or quotation.