Child Abuse Defenses

Defending yourself against a child abuse charge can be difficult especially if it involves the testimony of a child. Combine that with the media’s negative depiction of child abuse offenders and it may seem impossible to overcome the harsh realities of a child abuse allegation.

If you are charged with child abuse - whether physical, emotional, or sexual - a criminal defense lawyer can devise a sound defense strategy and help cast doubt on the prosecutor’s case. Like other crimes, a person charged with child abuse has the same rights as defendants of other crimes, including the right to defend themselves against a criminal charge.

While child abuse laws aim to protect children, the justice system is set up to vindicate those who are wrongfully accused. Below are some of the most common (and some not so common) defenses that a person may assert on a child abuse charge:

False Allegations of Child Abuse

A common defense to child abuse charges is to say you didn’t do it. False accusations of child abuse are more common than most people think, especially in dysfunctional families or between parents who are involved in a difficult child custody battle. Although sometimes difficult to prove, the best strategy to defend false child abuse charges is to aggressively counter-attack allegations and show proof of the lie or similar wrongful conduct by the accuser.

The Injury Is a Result of an Accident

Most state child abuse laws do not punish accidents, unless the accident was a result of recklessness or gross carelessness. Examples of true accidents may include pushing your child on a bike and causing him to fall and scrape his knees or unknowingly slamming your toddler’s hand in the door. When a child’s injuries are a result of an accident, a person may raise this as a defense against child abuse charges but courts are split as to whether to prosecute parents who accidentally cause harm to a child when acting with negligence (such as leaving a sleeping baby in a car alone on a hot day).

The Injury Is a Result of Something Other Than Child Abuse

Sometimes parents are falsely accused of child abuse based on non-accidental situations, such as when a child fights with another child and injures himself or when a child has a pre-existing medical condition that contributes to her own injuries. For example, one type of disease called “brittle bone disease” has been raised as a defense to show that one’s injuries were the result of a disorder that causes a child’s bones to break easily, and not a result of child abuse.

Parent’s Right to Discipline

Parents are generally free to discipline their children in any manner they choose, so long as the discipline is reasonable and causes no bodily injury. The question of how a parent disciplines a child (such as through spanking or threat of spanking), however, is often the subject of many child abuse cases. In certain circumstances, a parent, or one standing in “loco parentis” (such as a teacher), can raise the defense of “parental privilege” and claim that they had the right to reasonably discipline a child under their authority. However, if a child’s injuries are more serious than minor bruising as a result of the discipline, the parental privilege may not apply.

Religious Beliefs or Exemption

Even though it’s hard to grasp the thought of a child dying from an easily treatable illness, parents may claim an exemption to child abuse for religious reasons when a child dies because of a parent’s failure to seek medical care for their sick child. Although controversial, this religious exemption is a defense in all but a handful of states, and allows parents to escape...
charges of child abuse if they choose to pray for their sick children rather than take them to a doctor.

**Munchausen Syndrome by Proxy**

In rare cases, an individual accused of child abuse may raise the little-known defense called Munchausen Syndrome by Proxy (MSBP). MSBP is used to describe incidents in which a child caregiver, usually the mother, either lies about or promotes illnesses in their children in an attempt to draw attention or sympathy to themselves. This defense usually requires proof of psychological or medical data.

There may be other defenses available depending on the circumstances in your particular case. It is wise to speak with a [criminal defense lawyer](#) who can help you understand your rights with respect to child abuse laws in your state.
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