

Mandatory Reporting Requirements: Children North Dakota

Last Updated: April 2023

Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • Dentist; • Optometrist; • Dental hygienist; • Medical examiner or coroner; • Tier 1 mental health professional (as defined below); • Tier 2 mental health professional (as defined below); • Tier 3 mental health professional (as defined below); • Tier 4 mental health professional (as defined below); • Any other medical or mental health professional; • Religious practitioner of the healing arts; • Schoolteacher; • School administrator; • School counselor; • Child care worker; • Foster parent; • Police or law enforcement officer; • Juvenile court personnel; • Probation officer; • Division of juvenile services employee; • Licensed social worker; • Family service specialist; • Child care licensor; • Member of the clergy (except if knowledge or suspicion is derived from information received in capacity of a spiritual advisor); • A chiropractor having knowledge of or reasonable cause to suspect that there is child abuse or neglect is mandated to report the circumstances to the department of human services if the knowledge or suspicion is derived from information received by the chiropractor in the chiropractor's professional capacity (N.D. Admin. Code 17-02-03-04); or • A person who has knowledge of or reasonable cause to suspect that a child is abused or neglected, based on images of sexual conduct by a child discovered on a workplace computer. • Any person having reasonable cause to suspect a child is abused or neglected, or has died as a result of abuse or neglect, <i>may</i> report such circumstances.

<p>When is a report required and where does it go?</p>	<p>When is a report required?</p> <ul style="list-style-type: none"> • Knowledge of or reasonable cause to suspect that a child is abused or neglected, or has died as a result of abuse or neglect, if the knowledge or suspicion is (i) derived from information received by that person in his or her official or professional capacity, or (ii) based on images of sexual conduct by a child discovered on a workplace computer. <ul style="list-style-type: none"> • A member of the clergy is not required to report if the knowledge or suspicion is derived from information received in the capacity of spiritual advisor. • Knowledge of or reasonable cause to suspect that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, if such knowledge or suspicion is derived from information received by that person in his or her official or professional capacity. <p>Where does it go?</p> <ul style="list-style-type: none"> • Human Service Zone office in the county where the child is located, which can be accessed at: http://www.nd.gov/dhs/locations/countysocialserv/index.html
<p>What definitions are important to know?</p>	<ul style="list-style-type: none"> • “Abandon” means: <ul style="list-style-type: none"> • As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause: <ul style="list-style-type: none"> • to communicate with the child; or • to provide for the care and support of the child as required by law. • As to a parent of a child in that parent’s custody: <ul style="list-style-type: none"> • to leave the child for an indefinite period without making firm and agreed plans, with the child’s immediate caregiver, for the parent’s resumption of physical custody; • following the child’s birth or treatment at a hospital, to fail to arrange for the child’s discharge within 10 days after the child no longer requires hospital care; or • to willfully fail to furnish food, shelter, clothing or medical attention reasonably sufficient to meet the child’s needs. • “Abused child” means an individual under the age of 18 who is suffering from abuse (inflicting, or allowing to be inflicted, upon the child bodily injury, serious bodily injury, substantial bodily injury or mental injury) caused by a person responsible for the child’s welfare, and includes a sexually abused child who is suffering from or was subjected to any act in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.3, or chapter 12.1-27.2, by any individual, including a juvenile. • “Child” means a child who is: <ul style="list-style-type: none"> • Under the age of 18 and is not married; or • Under the age of 20 with respect to a delinquent act committed while under the age of 18 and not married. • “Custodian” means a person, other than a parent or legal guardian, which stands in loco parentis to the child and a person that has been given legal custody of the child by order of a court. • “Neglected child” means a child who, due to the action or inaction of a person responsible for the child’s welfare:

- Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child’s physical, mental, or emotional health, or morals, and the deprivation is not due primarily to the lack of financial means of the child’s parents, guardian, or other custodian;
 - Has been placed for care or adoption in violation of law;
 - Has been abandoned by the child’s parents, guardian, or other custodian;
 - Is without proper parental care, control, or education as required by law, or other care and control necessary for the child’s well-being because of the physical, mental, emotional, or other illness or disability of the child’s parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child’s parents, and care is requested by a parent;
 - Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court;
 - Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance in a manner not lawfully prescribed by a practitioner;
 - Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia, except as used in this subsection, controlled substance includes any amount of marijuana; or
 - Is a victim of human trafficking.
- A **“person responsible for the child’s welfare”** means an individual who has responsibility for the care or supervision of a child and who is the child’s parent, an adult family member of the child, any member of the child’s household, the child’s guardian, or the child’s foster parent, or an employee of, or any person providing care for the child in, a child care setting. For the purpose of institutional child abuse or neglect, a **“person responsible for the child’s welfare”** means an institution that has responsibility for the care or supervision of a child.
 - **“Tier 1 mental health professional”** means a tier 1a or tier 1b mental health professional.
 - A **“tier 1a mental health professional”** is:
 - a psychiatrist licensed under chapter 43-17; or
 - a psychologist licensed under chapter 43-32.
 - A **“tier 1b mental health professional”** is:
 - a licensed physician or physician assistant licensed under chapter 43-17; or
 - an advanced practice nurse licensed under chapter 43-12.
 - **“Tier 2 mental health professional”** means a tier 2a or a tier 2b mental health professional.
 - A **“tier 2a mental health professional”** is:
 - an independent clinician who is a licensed independent clinical social worker licensed under chapter 43-41;
 - a licensed professional counselor licensed under chapter 43-47; or
 - a licensed marriage and family therapist licensed under chapter 43-53.
 - A **“tier 2b mental health professional”** is:
 - an addiction counselor licensed under chapter 43-45; or
 - a registered nurse licensed under chapter 43-12.
 - **“Tier 3 mental health professional”** means:

	<ul style="list-style-type: none"> • a licensed professional counselor licensed under chapter 43-47; • a licensed certified social worker licensed under chapter 43-41; • a licensed professional counselor licensed under chapter 43-47; • an associate marriage and family therapist licensed under chapter 43-53; • an occupational therapist licensed under chapter 43-40; • a licensed practical nurse licensed under chapter 43-12; • a behavior analyst licensed or registered under chapter 43-32; • a vocational rehabilitation counselor practicing under chapter 50-06.1; • a school psychologist; or • a human relations counselor. <ul style="list-style-type: none"> • “Tier 4 mental health professional” means a direct care associate or technician.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Must be reported immediately. Reports may be oral or written, though oral reports must be followed by written reports within 48 hours if so requested by the Department of Human Services, and such requested written reports must include information specifically sought by the Department if the reporter possesses or has reasonable access to such information. A written report form is accessible at: http://www.nd.gov/eforms/Doc/sfn00960.pdf • The chief administrator of an entity employing more than 25 individuals who are required to report suspected child abuse or neglect may designate an agent within the entity to file reports of suspected child abuse or neglect on behalf of the staff members and volunteers of the entity. A report filed by the designated agent must include the first and last name, title, and contact information for every staff member or volunteer of the entity who is believed to have direct knowledge of the facts surrounding the report. A single report from the designated agent is adequate to meet the reporting requirement on behalf of staff members and volunteers of the entity listed with the required information.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • Not specified by statute (see written report form referenced above). • A report about a pregnant woman who has used a controlled substance (as described above) must be sufficient to identify the woman, the nature and extent of use, if known, and the name and address of the individual making the report.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Any act or failure to act by a person responsible for a child’s welfare which allows, permits or encourages a child to engage in prostitution, the obscene or pornographic photographing, filming, or depicting of the child for commercial purposes or otherwise or be subjected to other sexual abuses (such as rape, molestation or incest) constitutes child abuse and neglect and is subject to the reporting requirements (N.D. Atty. Gen. Op. No. 81-20). • The procedures and standards for reporting, investigating, and treating all cases of medical neglect, including those in which parents refuse to provide medical care for religious reasons, are the same for all children, regardless of the religious beliefs or practices of their parents or guardians (N.D. Atty. Gen. Op. No. 93-01). • Any individual required by this chapter to report or to supply information concerning a case of known or suspected child abuse, neglect, or death resulting from abuse or neglect who willfully fails to do so is guilty of a class B misdemeanor. • Any individual who willfully makes a false report, or provides false information that causes a report to be

made, is guilty of a class B misdemeanor unless the false report is made to a law enforcement official, in which case the individual who causes the false report to be made is guilty of a class A misdemeanor. An individual who willfully makes a false report, or willfully provides false information that causes a report to be made, is also liable in a civil action for all damages suffered by the person reported, including exemplary damages.

- An employer that retaliates against an employee solely because the employee in good faith reported having reasonable cause to suspect that a child was abused or neglected, or died as a result of abuse or neglect, or because the employee is a child with respect to whom a report was made, is guilty of a class B misdemeanor. It is a defense to any such charge that the presumption of good faith has been rebutted.
- Any individual or official required to report may cause to be taken color photographs of the areas of trauma visible on a child suspected of abuse or neglect and, if indicated by medical consultation, cause to be performed imaging studies, laboratory tests, colposcopies, and other medical tests of the child without the consent of the child's parents or guardian. All photographs and other visual images must be taken by law enforcement officials, physicians, or medical facility professionals upon the request of any individual or official required to report. Photographs and visual images, or copies of them, must be sent to the Department of Human Services or the authorized agent at the time the initial report is made or as soon thereafter as possible.
- Any person, other than the alleged violator, participating in good faith in the making of a report, assisting in an investigation, assessment or alternative response assessment, furnishing information, or in providing protective services under this chapter or who is a member of the child fatality review panel, is immune from any liability, civil or criminal, except for criminal liability as provided by section 50-25.1-13, that otherwise might result from reporting the alleged case of abuse, neglect, or death resulting from child abuse or neglect. For the purpose of any proceeding, civil or criminal, the good faith of any person required to report cases of child abuse, neglect, or death resulting from abuse or neglect must be presumed.

Statutory citation(s):

- N.D. Cent. Code §§ 25-01-01, 27-20.2-01, 50-25.1-02, 50-25.1-03, 50-25.1-03.1, 50-25.1-04, 50-25.1-09, 50-25.1-09.1, 50-25.1-13, 50.25.1-16; N.D. Admin. Code 17-02-03-04.