

Mandatory Reporting Requirements: Children South Dakota

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Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • Any physician; • Dentist; • Doctor of osteopathy; • Chiropractor; • Optometrist; • Emergency medical technician; • Paramedic; • Mental health professional or counselor; • Podiatrist; • Psychologist; • Religious healing practitioner; • Social worker; • Hospital intern or resident; • Parole or court services officer; • Law enforcement officer; • Teacher; • School counselor; • School official; • Nurse; • Licensed or registered child welfare provider; • Employee or volunteer of a domestic abuse shelter; • Employee or volunteer of a child advocacy organization or child welfare service provider; • Chemical dependency counselor; • Coroner; • Dental hygienist; and • Any “safety sensitive position” (which means any law enforcement officer authorized to carry firearms and any custody staff employed by any agency responsible for the rehabilitation or treatment of any adjudicated adult or juvenile).
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • Reasonable cause to suspect that a child under the age of 18 has been abused or neglected. <p>Where does it go?</p>

	<ul style="list-style-type: none"> • The required reports shall be made orally and immediately by telephone or otherwise to the state’s attorney of the county in which the child resides or is present, to the Department of Social Services by telephone at 877-244-0864 or to law enforcement officers. More information about reporting child abuse or neglect and Child Protective Services is accessible at: https://dss.sd.gov/childprotection/protective.aspx • Any person who has contact with a child through the performance of services as a member of a staff of a hospital or similar institutions shall immediately notify the person in charge of the institution, or his designee, of suspected abuse or neglect. The person in charge shall report the information orally and immediately by telephone or otherwise to the state’s attorney of the county in which the child resides or is present, to the Department of Social Services or to law enforcement officers; the state’s attorney or law enforcement officers, upon receiving a report, shall immediately notify the Department of Social Services. Any person required to report shall also promptly submit to the state’s attorney complete copies of all medical examination, treatment and hospital records regarding the child. • Any person who has contact with a child through the performance of services in any public or private school, whether accredited or unaccredited, as a teacher, school nurse, school counselor, school official or administrator, or any person providing alternative instruction (such as home school) pursuant to S.D.C.L. § 13-27-3, shall notify the principal or superintendent or designee of suspected abuse or neglect. The school principal or superintendent must then report the information orally and immediately by telephone or otherwise to the state’s attorney of the county in which the child resides or is present, to the Department of Social Services or to law enforcement officers; the state’s attorney or law enforcement officers, upon receiving a report, shall immediately notify the Department of Social Services. <ul style="list-style-type: none"> • The terms “teacher,” “school counselor,” “school official,” “ school administrator,” “school principal,” and “school superintendent” apply to any person substantially performing the respective duties of any such position in a public or private school, whether accredited or unaccredited, and to any person providing alternative instruction (such as home school) pursuant to S.D.C.L. § 13-27-3. • In addition to the above-referenced report, any person who has reasonable cause to suspect that a child has died as a result of child abuse or neglect shall report that information to the medical examiner or coroner.
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<p>What definitions are important to know?</p>	<ul style="list-style-type: none"> • “Abused or neglected child” means a child: <ul style="list-style-type: none"> • Whose parent, guardian, or custodian has abandoned the child or has subjected the child to mistreatment or abuse; • Who lacks proper parental care through the actions or omissions of the child’s parent, guardian, or custodian; • Whose environment is injurious to the child’s welfare; • Whose parent, guardian, or custodian fails or refuses to provide proper or necessary subsistence, supervision, education, medical care, or any other care necessary for the child’s health, guidance, or well-being; • Who is homeless, without proper care, or not domiciled with the child’s parent, guardian, or custodian through no fault of the child’s parent, guardian, or custodian; • Who is threatened with substantial harm; • Who has sustained emotional harm or mental injury as indicated by an injury to the child’s intellectual or psychological capacity evidenced by an observable and substantial impairment in the
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	<p>child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture;</p> <ul style="list-style-type: none"> • Who is subject to sexual abuse, sexual molestation, or sexual exploitation by the child's parent, guardian, custodian, or any other person responsible for the child's care; • Who was subject to prenatal exposure to abusive use of alcohol, marijuana, or any controlled drug or substance not lawfully prescribed by a practitioner; or • Whose parent, guardian, or custodian knowingly exposes the child to an environment that is being used for the manufacture, use or distribution of methamphetamines or any other unlawfully manufactured controlled drug or substance <p>• Health care practitioner. A health care practitioner is a person licensed, accredited, or certified to perform specified health services consistent with state law.</p>
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Reports must be made immediately. Reports must be made orally by telephone or otherwise.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • The name, address, date and place of birth of the child; • the name and address of the child's parents, guardian, custodian or responsible persons; • the date of the report; and • the suspected or proven instances of child abuse or neglect.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Any person with reasonable cause to suspect that a child has died as a result of abuse or neglect who knowingly and intentionally fails to make the required report is guilty of a Class 1 misdemeanor, punishable by a maximum of one year imprisonment or a \$2,000 fine, or both. • Any person who knowingly and intentionally fails to make the required report is guilty of a Class 1 misdemeanor, punishable by a maximum of one year imprisonment or a \$2,000 fine, or both. • Any person who knows or has reason to suspect that a child has been abused or neglected may report that information. • The mandatory reporter who witnessed the disclosure or evidence of abuse or neglect must be available to answer questions when the initial report is made. The person receiving a report alleging child abuse or neglect shall keep the report confidential and ask whether or not the reporting party desires a response report. If requested by the reporting person, the department of social services or the concerned law enforcement officer shall issue within 30 days, a written acknowledgement of receipt of the report and a response stating whether or not the report will be investigated. • Immunity: Any person or party participating in good faith in the making of a report or the submitting of copies of medical examination, treatment, or hospitalization records pursuant to the child abuse or neglect statutory reporting requirements is immune from any liability, civil or criminal, that might otherwise be incurred or imposed, and has the same immunity for participation in any judicial proceeding resulting from the report. Immunity also extends in the same manner to persons requesting the taking of photographs and X rays, to persons taking the photographs and X rays, to child protection teams established by the secretary of social services, to public officials or employees involved in the investigation

and treatment of child abuse or neglect or making a temporary placement of the child, or to any person who in good faith cooperates with a child protection team or the Department of Social Services in investigation, placement, or a treatment plan. The grant of immunity does not extend to any person alleged to have committed an act or acts of child abuse or neglect.

- Any person who receives a report of child abuse from a mandated reporter may take or cause to be taken color photographs, videotapes, or other images of the areas of trauma visible on a child who is the subject of the report and may require a radiological or other medical examination or testing of the child without the consent of the child's parents, guardian, or custodian.
- Privileged communication, such as with a physician, psychotherapist or counselor, may not be claimed in any judicial proceeding involving an alleged abused or neglected child or resulting from the giving or causing the giving of a report concerning abuse or neglect of a child.
- If a health care practitioner has reason to believe based on a medical assessment of a mother or a newborn infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy, the health care practitioner may administer, with or without the consent of the newborn infant's parent or guardian, a toxicology test to the newborn infant under the health care practitioner's care to determine whether there is evidence of prenatal exposure to a controlled substance. If the test results are positive, the health care practitioner shall report the results.
- Immunity: A health care practitioner or any other medical personnel administering a toxicology test to determine the presence of a controlled substance in a newborn infant at birth or during the first twenty-eight days after birth and the employer of the person administering the test are immune from civil or criminal liability arising from administration of the test if the health care practitioner ordering the test believes in good faith that the test is permitted under this section and if the test is administered in accordance with an established protocol and reasonable medical practice.

Statutory
citation(s):

- S.D.C.L. §§ 3-6C-1, 22-6-2, 26-8A-2, 26-8A-3, 26-8A-4, 26-8A-5, 26-8A-6, 26-8A-7, 26-8A-8, 26-8A-10, 26-8A-14., 26-8A-15. 26-8A-16 26-8A-35, 26-8A-36