

Mandatory Reporting Requirements: Children Montana

Last Updated: March 2020

Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • Any of the following professionals and officials that receive information in their professional or official capacity: <ul style="list-style-type: none"> • A physician, resident, intern, or member of a hospital’s staff engaged in the admission, examination, care, or treatment of persons (“category 1” for purposes of the discussion below in “Anything else I should know?”); • A nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional (“category 2” for purposes of the discussion below in “Anything else I should know?”); • Religious healers; • School teachers, other school officials, and employees who work during regular school hours; • A social worker, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under Montana state law or of a child and adult food care program, or an operator or employee of a child-care facility; • A foster care, residential, or institutional worker; • A peace officer or other law enforcement official; • A member of the clergy; • A guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect; and • An employee of an entity that contracts with the department of public health and human services to provide direct services to children.
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • When in their professional or official capacity the reporter has knowledge or reasonable cause to suspect that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child’s welfare. <ul style="list-style-type: none"> • "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person. • Cause for suspicion should be based upon “a perceived present real harm or a perceived present imminent risk of harm. This perception need not always be based entirely upon current, culpable acts of those responsible for the child.” The suspicion could be based on “past acts, present acts, or both.” <i>Gross v. Myers</i>, 748 P.2d 459, 461 (Mont. 1987). • A person or official required to report who has reasonable cause to suspect that a child has died as a result

of child abuse or neglect shall report the person's suspicion to the appropriate medical examiner or law enforcement officer.

Where does it go?

- Child Abuse Hotline (1-866-820-5437 (KIDS)) through the Children & Family Services Division of the Department of Public Health and Human Services.
- The director, assistant director or any staff member of the day care facility who has reason to suspect that any child is or has been abused or neglected is required to personally report the matter promptly to the department child abuse hotline.
 - The day care provider or staff member is required to make the report within 24 hours of receiving information concerning suspected child abuse or neglect.
- A person or official required to report who has reasonable cause to suspect that a child has died as a result of child abuse or neglect shall report the person's suspicion to the appropriate medical examiner or law enforcement officer.

What definitions are important to know?

- **“A person responsible for a child’s welfare”** means (i) the child’s parent, guardian, foster parent, adult who resides in same home; (ii) a person providing care in a day-care facility; (iii) an employee of a public or private residential institution, facility, home, or agency; or (iv) any other person responsible for the child’s welfare in a residential setting.
- **“Child” or “youth”** means any person under 18 years of age.
- **“Child abuse or neglect”** means: (i) actual physical or psychological harm to a child; (ii) substantial risk of physical or psychological harm to a child; or (iii) abandonment.
 - The term includes: (A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child’s welfare; or (B) exposing a child to the criminal distribution of dangerous drugs, the criminal production or manufacture of dangerous drugs, or the operation of an unlawful clandestine laboratory.
- **“Physical abuse”** means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.
- **“Physical neglect”** means either failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.
- **“Physical or psychological harm to a child”** means the harm that occurs whenever the parent or other person responsible for the child’s welfare: (i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect; (ii) commits or allows sexual abuse or exploitation of the child; (iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child’s welfare; (iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or

	<p>other reasonable means to do so; (v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or (vi) abandons the child.</p> <ul style="list-style-type: none"> • “Psychological abuse or neglect” means severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child's home.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Reports to be made promptly. • No written report is required.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • The names and addresses of the child and the child's parents or other persons responsible for the child's care; • To the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries; • Any other information that the reporter believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of person or persons responsible for the injury or neglect; and • The facts that led the reporter to believe that the child has suffered injury or willful neglect.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Failure to report (or preventing another person from reporting) can result in civil liability for damages proximately caused by the failure to report. • A person required to report who purposefully or knowingly fails to report or prevents another person from doing so is guilty of a misdemeanor. • Professionals involved in the delivery or care of an infant must report any infant known to be affected by a dangerous drug (including, for example, opiates and hallucinogens). • Members of the clergy or priests are not required to report if: (1) the knowledge or suspicion came from a statement or confession made to him or her in his or her capacity as a clergy member or priest; (2) the statement was intended to be part of a confidential communication; and (3) the person who made the statement or confession does not consent to the disclosure <i>Passmore v. Frink</i>, No. CV-13-121, 2016 WL 4179364 **4-5 (2016). <ul style="list-style-type: none"> • In addition, a member of the clergy or a priest is not required to make a report if the communication is required to be confidential by canon law, church doctrine, or established church practice. • Montana School Guidelines for the Identification and Reporting of Child Abuse and Neglect may be accessed at: https://www.bsd44.org/wp-content/uploads/2019/09/SchoolGuidelinesChildAbuseandNeglect.pdf
<p>Statutory citation(s):</p>	<ul style="list-style-type: none"> • Mont. Code Ann. §§ 41-3-102, 41-3-201, 41-3-206, 41-3-207. • Mont. Admin. R. 37-95-171.