

Mandatory Reporting Requirements: Children Montana

Last Updated: April 2023

Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • Any of the following persons as a result of information they receive 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, licensed pursuant to Title 37, child protection specialist, 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; • An employee of an entity that contracts with the department of public health and human services to provide direct services to children; and • An employee of the department while in conduct of the employee’s duties.
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • Knowledge or reasonable cause to suspect (i.e., 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), as a result of information received in their professional or official capacity, that a child is abused or neglected. <ul style="list-style-type: none"> • 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). • Notwithstanding the foregoing: <ul style="list-style-type: none"> • members of the clergy or priests are not required to report if: (1) the knowledge or suspicion came

	<p>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 between the member of the clergy or the priest and a member of the church or congregation; 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).</p> <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. <p>Where does it go?</p> <ul style="list-style-type: none"> • 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.
<p>What definitions are important to know?</p>	<ul style="list-style-type: none"> • “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; (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; or (C) any form of child sex trafficking or human trafficking. The term does not include (i) self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child or (ii) a youth not receiving supervision solely because of parental inability to control the youth’s behavior.
<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"> • Any person may make a report if the person knows or has reasonable cause to suspect that a child is abused or neglected. • Procedure in Cases of a Child's Death: 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. • Failure to Report: <ul style="list-style-type: none"> • (1) Failure to report (or preventing another person from reporting) results in civil liability for damages proximately caused by the failure to report; (2) a person or official required to report who purposefully or knowingly fails to report or purposefully or knowingly prevents another person from doing so is guilty of a misdemeanor; and (3) any person or official required to report known or suspected sexual abuse or sexual exploitation who purposely or knowingly fails to report known sexual abuse or sexual exploitation of a child or purposely or knowingly prevents another person from making a report is guilty of a felony and shall be imprisoned in the state prison for a term not to exceed 5 years and/or fined an amount not to exceed \$10,000. • Denial, suspension, restriction, or revocation of foster care licensure for failure to report. • Dangerous Drugs: Professionals in categories 1 and 2 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). • Montana School Guidelines for the Identification and Reporting of Child Abuse and Neglect may be accessed at: https://dphhs.mt.gov/assets/cfsd/SchoolGuidelinesBooklet.pdf • The physician, nurse, or other person licensed to practice a health care profession treating the victim of a gunshot wound or stabbing shall make a report to a law enforcement officer by the fastest possible means. Within 24 hours after initial treatment or first observation of the wound, a written report shall be submitted, including the name and address of the victim, if known, and shall be sent by regular mail.
<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 37-2-302.