

Mandatory Reporting Requirements: The Elderly Montana

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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 capacity: <ul style="list-style-type: none"> • A physician, resident, intern, professional or practical nurse, physician assistant, or member of a hospital staff engaged in the admission, examination, care, or treatment of persons; • An osteopath, dentist, denturist, chiropractor, optometrist, podiatrist, medical examiner, coroner, or any other health or mental health professional; • An ambulance attendant; • A social worker or other employee of the state, a county, or a municipality assisting an older person or a person with a developmental disability in the application for or receipt of public assistance payments or services; • A person who maintains or is employed by a rooming house, retirement home or complex, nursing home, group home, adult foster care home, adult day-care center, or assisted living facility or an agency or individual that provides home health services or personal care in the home; • An attorney, unless the attorney acquired knowledge of the facts required to be reported from a client and the attorney-client privilege applies; • A peace officer or other law enforcement official; • A person providing services to an older person or a person with a developmental disability pursuant to a contract with a state or federal agency; and • An employee of the department of public health and human services while in the 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"> • When a professional or other person with a duty to report knows or has reasonable cause to suspect that an older person or a person with a developmental disability known to them in their professional or official capacities has been subjected to abuse, sexual abuse, neglect, or exploitation. <p>Where does it go?</p> <ul style="list-style-type: none"> • If the victim is not a resident of a long-term care facility, the report should be made to the Montana Department of Public Health and Human Services (DPHHS) Adult Protective Services (APS) (1-844-277-9300) or its local affiliate, or the county attorney where the person resides or where the acts that are the subject of the report occurred. Reports to DPHHS APS can also be made online at: https://montanaaps.com/Intake/PublicIntakeReport.aspx • If the victim is a resident of a long-term care facility, the report should be made to the State Long-Term Care Ombudsman (1-800-332-2272) and to DPHHS APS (1-844-277-9300).

	<ul style="list-style-type: none"> • Contact information for regional and county Adult Protective Services offices can be found at: https://dphhs.mt.gov/Portals/85/sltc/documents/aps/APSCoactList.pdf • If the report involves an act or omission of the department of public health and human services that may be construed as abuse, sexual abuse, neglect, or exploitation, a copy of the report may not be sent to the department of public health and human services but must be sent instead to the county attorney of the county in which the older person or the person with a developmental disability resides or in which the acts that are the subject of the report occurred.
<p>What definitions are important to know?</p>	<ul style="list-style-type: none"> • “Abuse” means the infliction of physical or mental injury; or the deprivation of food, shelter, clothing, services necessary to maintain the physical or mental health of an older person or a person with a developmental disability without lawful authority, or the causing of personal degradation of an older person or a person with a developmental disability in a place where the older person or person with a development disability has a reasonable expectation of privacy. • “Exploitation” means: <ul style="list-style-type: none"> • the unreasonable use of an older person or a person with a developmental disability or of a power of attorney, conservatorship, or guardianship with regard to an older person or a person with a developmental disability in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the person's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of or interest in the person's money, assets, or property; • an act taken by a person who has the trust and confidence of an older person or a person with a developmental disability to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the person's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of or interest in the person's money, assets, or property; or • the unreasonable use of an older person or a person with a developmental disability or of a power of attorney, conservatorship, or guardianship with regard to an older person or a person with a developmental disability done in the course of an offer or sale of insurance or securities in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of the person's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of the person's money, assets, or property. • “Long-term care facility” means a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care. • “Mental injury” means an identifiable and substantial impairment of a person's intellectual or psychological functioning or well-being. • “Neglect” means the failure of a person who has assumed legal responsibility or a contractual obligation for caring for an older person or a person with a developmental disability or who has voluntarily assumed

	<p>responsibility for the person’s care, including an employee of a public or private residential institution, facility, home, or agency, to provide food, shelter, clothing, or services necessary to maintain the physical or mental health of the older person or the person with a developmental disability.</p> <ul style="list-style-type: none"> • “Older person” means a person who is at least 60 years of age. • “Personal degradation” means publication or distribution of a printed or electronic photograph or video of an older person or a person with a developmental disability when the person publishing or distributing intends to demean or humiliate the older person or person with a developmental disability or knows or reasonably should know that the publication or distribution would demean or humiliate a reasonable person. Personal degradation does not include the recording and dissemination of images or video for treatment, diagnosis, regulatory compliance, or law enforcement purposes, as part of an investigation, or in accordance with a facility or program’s confidentiality policy and release of information or consent policy. • “Person with a developmental disability” means a person 18 years of age or older who has a disability that: <ul style="list-style-type: none"> • is attributable to intellectual disability, cerebral palsy, epilepsy, autism, or any other neurologically disabling condition closely related to intellectual disability; • requires treatment similar to that required by intellectually disabled individuals; • originated before the individual attained age 18; • has continued or can be expected to continue indefinitely; and • results in the person having a substantial disability. • “Physical injury” means death, permanent or temporary disfigurement, or impairment of any bodily organ or function. • “Sexual abuse” means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, incest, or sexual abuse of children.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Timing not specified in statute. • Reports can be made orally, by telephone or in person, or in writing. A person who receives an oral report shall prepare it in writing as soon as possible.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • The names and addresses of the older person or the person with a developmental disability and the person, if any, responsible for that person’s care; • The name and address, if available, of the person who is alleged to have abused, sexually abused, neglected, or exploited the older person or the person with a developmental disability; • To the extent known, the person’s age and the nature and extent of the abuse, sexual abuse, neglect, or exploitation, including any evidence of previous injuries, abuse, sexual abuse, neglect, or exploitation sustained by the older person or the person with a developmental disability; • To the extent known, any evidence of prior instances of abuse, sexual abuse, neglect, or exploitation of other older persons or persons with developmental disabilities committed by the person alleged to have committed abuse, sexual abuse, neglect, or exploitation; and • The name and address of the reporter.

Anything else I should know?	<ul style="list-style-type: none">• If a person required to make a report purposely or knowingly fails to make that report, the person could be sentenced to a term of imprisonment (not to exceed 6 months) in the county jail or a fine not to exceed \$500, or both.
Statutory citation(s):	Mont. Code Ann. §§ 46-18-212, 50-5-101, 52-3-803, 52-3-811, 52-3-812, 52-3-825, 53-20-102.