

Mandatory Reporting Requirements: Children Utah

Last Updated: March 2020

Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • Any person.
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • When any person has reason to believe that a child has been subjected to abuse or neglect, or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect. • When an individual, including a licensee under the Medical Practice Act or the Nurse Practice Act, attends the birth of a child or cares for a child, and determines that the child, at the time of birth, has fetal alcohol syndrome, fetal alcohol spectrum disorder, or fetal drug dependency, the individual shall report that determination to the division as soon as possible. <p>Where does it go?</p> <ul style="list-style-type: none"> • Utah Department of Human Services – Division of Child and Family Services (http://dcfs.utah.gov/services/child-protective-services/), the nearest peace officer, or law enforcement agency. • Reports may be made by telephone to the Child Abuse/Neglect Hotline at 1-855-323-3237.
What definitions are important to know?	<ul style="list-style-type: none"> • “Abuse” means: <ul style="list-style-type: none"> • Non-accidental harm of a child; • Threatened harm of a child; • Sexual exploitation; • Sexual abuse; • Human trafficking of a child; or • That a child’s natural parent: <ul style="list-style-type: none"> • Intentionally, knowingly, or recklessly causes the death of another parent of the child; • Is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or • Is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child. <p>“Abuse” does <i>not</i> include:</p> <ul style="list-style-type: none"> • Reasonable discipline or management of a child, including withholding privileges; • Conduct that is a justifiable defense to prosecution as provided under Utah law; or

- The use of reasonable and necessary physical restraint or force on a child:
 - In self-defense;
 - In defense of others;
 - To protect the child; or
 - To remove a weapon in the possession of a child for any of the reasons described above.
- **“Child”** means an individual under the age of 18.
- **“Educator”** means:
 - A person who holds a state license to serve in a professional capacity in the public schools;
 - A teacher, counselor, administrator, librarian, or other person required, under rules of the State Board of Education, to hold a license;
 - A person who is the subject of an allegation which has been received by the State Board of Education or the Utah Professional Practices Advisory Commission and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure; or
 - A person, including a volunteer or temporary employee, who at the time of an alleged offense was performing a function in a private school for which a license would be required in a public school.
- **“Harm”** means:
 - Physical or developmental injury or damage;
 - Emotional damage that results in a serious impairment in the child’s growth, development, behavior, or psychological functioning;
 - Sexual abuse; or
 - Sexual exploitation.
- **“Minor”** means a child or an individual who is (i) at least 18 years of age and younger than 21 years of age and (ii) under the jurisdiction of the juvenile court.
- **“Molestation”** means that an individual, with the intent to arouse or gratify the sexual desire of any individual:
 - Touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child; or
 - **“Takes indecent liberties”** with a child, which means:
 - Touching, or causing the victim to touch, the actor's genitals, anus, buttocks, pubic area, or female breast against any part of the body of the victim;
 - Causing the victim to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;
 - Simulating or pretending to engage in sexual intercourse with the victim, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or
 - Causing the victim to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.
- **“Neglect”** means action or inaction causing:
 - Abandonment of a child, except for a safe relinquishment of a newborn child as provided under Utah law;
 - Lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or

- custodian;
- Failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence, education, or medical care, or any other care necessary for the child's health, safety, morals, or well-being;
- A child to be at risk of being neglected or abused because another child in the same home is neglected or abused; or
- Abandonment of a child through an unregulated custody transfer; or
- **“Educational neglect”** which means that, after receiving a notice of compulsory education violation or notice that a parent or guardian has failed to cooperate with school authorities in a reasonable manner, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

“Neglect” does *not* include:

- A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;
- A health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;
- A parent or guardian exercising the right to obtain a second health care opinion and form pursuing care and treatment pursuant to the second health care opinion;
- Permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:
 - Traveling to and from school, including by walking, running, or bicycling;
 - Traveling to and from nearby commercial or recreational facilities;
 - Engaging in outdoor play;
 - Remaining in a vehicle unattended, except under certain conditions;
 - Remaining at home unattended; or
 - Engaging in a similar independent activity
- **“Physical abuse”** means abuse that results in physical injury or damage to a child.
- **“Sexual abuse”** means:
 - An act or attempted act of sexual intercourse, sodomy, incest, or molestation directed towards a child;
 - An act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:
 - There is an indication of force or coercion;
 - The children are related, including siblings by marriage while the marriage exists or by adoption;
 - There have been repeated incidents of sexual contact between the two children, unless the children are 14 years of age or older; or
 - There is a disparity in chronological age of four or more years between the two children;
- Engaging in any conduct with a child that would constitute an offense under any of the following,

	<p>regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense: (i) sexual offenses defined under Utah law; (ii) child bigamy; (iii) incest; (iv) lewdness; (v) sexual battery; (vi) lewdness involving a child; or (vii) voyeurism; or</p> <ul style="list-style-type: none"> • Subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage. • “Sexual exploitation” means knowingly: <ul style="list-style-type: none"> • Employing, using, persuading, inducing, enticing, or coercing any child to: <ul style="list-style-type: none"> • Pose in the nude for the purpose of sexual arousal of any individual; or • Engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct; • Displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child: <ul style="list-style-type: none"> • In the nude, for the purpose of sexual arousal of any individual; or • Engaging in sexual or simulated sexual conduct; or • Engaging in any conduct that would constitute an offense of sexual exploitation of a minor, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Telephone report to be made immediately. • If requested by the Division of Child and Family Services, a written report must be submitted within 48 hours.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • Not specified by statute.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Willful failure to report is a Class B misdemeanor punishable by imprisonment for a term not exceeding six months, a fine of \$1,000, or both. <ul style="list-style-type: none"> • Action for failure to report must be commenced within four years from the date of knowledge of the offense and the willful failure to report. • The notification requirements do not apply to a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if (a) the perpetrator made the confession directly to the member of the clergy; and (b) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession. <ul style="list-style-type: none"> • When a member of the clergy receives information about abuse or neglect from any source other than confession of the perpetrator, the member of the clergy is required to give notification on the basis of that information even though the member of the clergy may have also received a report of abuse or neglect from the confession of the perpetrator. • Exemption of notification requirements for a member of the clergy does not exempt a member of the clergy from any other efforts required by law to prevent further abuse or neglect by the perpetrator.

- Any person, official, or institution participating in good faith in making a report, taking photographs or X-rays, assisting an investigator, serving as a member of a child protection team, or taking a child into protective custody, is immune from any liability, civil or criminal, that otherwise might result by reason of those actions, except if the person, official, or institution:
 - Acted or failed to act through fraud or willful misconduct;
 - In a judicial or administrative proceeding, intentionally or knowingly gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false testimony material to the issue or matter of inquiry in the proceeding; or
 - Intentionally or knowingly:
 - Fabricated evidence; or
 - Except as provided below, with a conscious disregard for the rights of others, failed to disclose evidence that:
 - Was known to the person, official, or institution; and
 - Was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in a pending judicial or administrative proceeding if the person, official, or institution knew of the pending judicial or administrative proceeding, or was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in a judicial or administrative proceeding, if disclosure of the evidence was requested of the employee by a party to the proceeding or counsel for a party to the proceeding.
- Immunity is not lost if the person, official, or institution:
 - Failed to disclose evidence because the person, official, or institution is prohibited by law from disclosing the evidence; or
 - Refused to disclose evidence to a person who requested the evidence; and after refusing to disclose the evidence, complied with or responded to a valid court order or valid subpoena received by the person, official, or institution to disclose the evidence.
 - The scope of immunity afforded to government employees is governed by separate rules.
- Any person who has reason to believe that a child has died as a result of abuse or neglect shall report that fact to the local law enforcement agency and the appropriate medical examiner.
- If, in connection with an intended or completed abortion by a minor, a physician is required to make a report of incest or abuse of a minor, the report may not include information that would in any way disclose that the report was made in connection with an abortion or a consultation regarding an abortion.
- In addition to the duty to report child abuse or neglect, any educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report that information to the school principal, superintendent or to the Utah State Board of Education.
 - A school administrator receiving such report must immediately report the information to the Utah State Board of Education.
 - Failure to comply shall be considered unprofessional conduct.
 - A person who makes such a report in good faith shall be immune from civil or criminal liability

that might otherwise arise by reason of that report.

Statutory
citation(s):

- UT ST §§ 53E-6-102, 53E-6-701, 62A-4a-101, 62A-4a-403, 62A-4a-404, 62A-4a-405, 62A-4a-408, 62A-4a-405, 62A-4a-410, 62A-4a-411, 76-3-204, 76-3-301, 76-5-416, 78A-6-105.