

Mandatory Reporting Requirements: Children Utah

Last Updated: April 2023

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 is or has been the subject of abuse or neglect, or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, the person shall immediately report the suspected abuse or neglect. <p>Notwithstanding the foregoing:</p> <ul style="list-style-type: none"> • 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 the 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 report 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. • When a member of the clergy reasonably believes a child is the subject of ongoing abuse or neglect, the member of the clergy may report the information even if the perpetrator made a confession to the member of the clergy regarding the abuse or neglect. • The notification requirements do not apply to an attorney, or an individual employed by the attorney, if the knowledge or belief of the suspected abuse or neglect of a child arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse or neglect of the child to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6. • 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.

Where does it go?

- Utah Department of Human Services – Division of Child and Family Services (<https://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.
- 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.
- A health care provider who attends the birth of a newborn child or cares for a newborn child and determines any of the following, shall report the determination to the Division of Child and Family Services as soon as possible:
 - (a) the newborn child: (i) is adversely affected by the child’s mother’s substance abuse during pregnancy; (ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or (iii) demonstrates drug or alcohol withdrawal symptoms; or
 - (b) the parent of the newborn child or a person responsible for the child’s care demonstrates functional impairment or an inability to care for the child as a result of the parent’s or person’s substance abuse.

What definitions are important to know?

- **“Abuse”** means:
 - 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:
 - 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.

Female genital mutilation is considered a form of child abuse for purposes of mandatory reporting

“Abuse” does *not* include:

- reasonable discipline or management of a child, including withholding privileges;
- conduct that is a justifiable defense to prosecution as provided under Utah law (such as reasonable discipline of minors by parents, guardians or teachers); 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.
- **“Person responsible for the child’s care”** means the child’s parent, guardian, or other person responsible

for the child's care, whether in the same home as the child, a relative's home, a group, family, or day care facility, a foster care home, or a residential institution.

- **“Child”** means an individual under the age of 18 except as provided in Section 80-2-905 adopting the Interstate Compact on the Placement of Children, where a “child” is defined as a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.
- **“Educator”** means:
 - a person who holds a license where license means an authorization issued by the state board that permits the holder 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 a Local Education Agency, 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:
 - (A)(i) at least 18 years of age and younger than 21 years of age and (ii) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; or
 - (B)(i) at least 18 years old and younger than 25 years old; and (ii) whose case is under the continuing 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:
 - (1) touching the victim's genitals, anus, buttocks, pubic area, or female breast;
 - (2) causing any part of an individual's body to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;
 - (3) simulating or pretending to engage in sexual intercourse with the another individual, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or
 - (4) causing an individual 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, 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 from pursuing care and treatment pursuant to the second health care opinion, except when the child faces immediate threat of death or serious and irreparable harm and there is insufficient time to safely allow the parent or guardian to provide the alternative care and treatment;
- 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:
 - (A) traveling to and from school, including by walking, running, or bicycling;
 - (B) traveling to and from nearby commercial or recreational facilities;
 - (C) engaging in outdoor play;
 - (D) remaining in a vehicle unattended, except under certain conditions;
 - (E) remaining at home unattended; or
 - (F) engaging in a similar independent activity
- **“Newborn child”** means a child who is 30 days old or younger.
- **“Physical abuse”** means abuse that results in physical injury or damage to a child.
- **“Substance abuse”** means the misuse or excessive use of alcohol or other drugs or substances. Substance abuse does not include use of drugs or other substances that are obtained by lawful prescription and used as prescribed, or obtained in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and used as recommended by a recommending medical provider.
- **“Sexual abuse”** means:
 - an act or attempted act of sexual intercourse, sodomy, incest, or molestation directed towards a child;

	<ul style="list-style-type: none"> • an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if: <ul style="list-style-type: none"> • 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, 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 • 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 or aggravated 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; A person who reports orally shall provide a written report, within 48 hours if requested by the Division of Child and Family Services.
<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"> • An individual is guilty of a class B misdemeanor if the individual willfully fails to report suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency. An individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or attempts to intimidate a child who is the subject of a report under this part, the individual who made the report, a witness, or any other person cooperating with an investigation conducted in accordance with this chapter. A person who is convicted of a class B

misdemeanor may be sentenced to a term of imprisonment not exceeding six months and or a fine not to exceed \$1000.

- Exemption of notification requirements for a member of the clergy or attorney does not exempt the individual from any other efforts required by law to prevent further abuse or neglect by the perpetrator.
- The physician-patient privilege does not exclude a licensed provider under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under the fetal alcohol syndrome or spectrum disorder and drug dependency reporting requirements nor does it constitute grounds for excluding evidence regarding the child's injuries, or the cause of the child's injuries, in a judicial or administrative proceeding resulting from a report under those requirements.
- The Division of Child and Family Services and a law enforcement agency shall ensure the anonymity of the person who makes the initial report under this part and any other person involved in the division's or law enforcement agency's subsequent investigation of the report.
- A licensed physician, licensed physician assistant, medical examiner, peace officer, or public health officer or official may take a photograph of the areas of trauma visible on a child and, if medically indicated, perform radiological examinations. A photograph may be taken of the premises or of an object relevant to a reported circumstance of child abuse or neglect. A photograph, X-ray, or other medical record pertinent to an investigation for child abuse or neglect shall be made available to the division, law enforcement agencies, and the court.
- Immunity: A person who in good faith makes a report or who otherwise notifies the division or a peace officer or law enforcement agency of suspected abuse or neglect of a child, is immune from civil and criminal liability in connection with the report or notification. A person who is 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: (a) acted or failed to act through fraud or willful misconduct; (b) 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 (c) intentionally or knowingly fabricated evidence; or (d) intentionally or knowingly with a conscious disregard for the rights of others, failed to disclose evidence that was known by the person to be relevant to a material issue or matter of inquiry in a pending judicial or administrative proceeding if the person knew of the pending judicial or administrative proceeding; or 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: (a) failed to disclose evidence in a pending proceeding because the person is prohibited by law from disclosing the evidence; or (b) in accordance with federal regulations governing disclosure of protected health information, refused to disclose evidence to another 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 to disclose the evidence.
 - The scope of immunity afforded to government employees is governed by separate rules. The immunity described above does not apply with respect to an act or omission of a governmental

- employee, except as provided in title 63G, chapter 7, the Governmental Immunity Act of Utah.
- Immunity: An educator who makes a report in good faith of physical or sexual abuse by a school employee 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, 63G-7-201, 80-1-102, 80-2-102, 80-2-602 through 610, 76-3-204,
76-3-301