

Policies for School and Hospital Personnel

Any person who has contact with a child through the performance of services of a hospital or similar institution or of any public or private school, whether accredited or unaccredited, shall immediately notify the person in charge of the facility or their designee of suspected child abuse. That person shall then report the information in accordance with the provisions of
SDCL 26-8A-8

Every hospital or similar institution and every school district is required to have a written policy on reporting child abuse and neglect. Hospitals and similar institutions are also required to have a written policy regarding the submission of copies of medical examinations, treatment and hospital records to the state's attorney. *SDCL 26-8A-6, 26-8A-7*

Policy for Clergy

Clergy are not mandatory reporters unless they fall within one of the categories listed in SDCL 26-8A-3 (such as counselor, teacher or school official).

Clergy are not required to report child abuse that they learned of solely in the course of a conversation covered by the clergy-penitent privilege.

However, this privilege is waived when the person making the privileged communication voluntarily discloses the contents of the communication to a third party.

Liability for Reporting

Any person or party participating in good faith in making a report or submitting copies of medical examination, treatment or hospitalization records is immune from any liability, civil or criminal, that might otherwise be incurred or imposed, and has the same immunity for participation in any judicial proceeding resulting from the report.

Immunity extends in the same manner to those acting in the following ways as a result of a report of child abuse or neglect:

- Those requesting and taking photographs or X-rays;
- Child protection teams established by the Secretary of DSS;
- Public officials or employees involved in the investigation and treatment of child abuse or neglect or making a temporary placement of the child; or
- Any person who in good faith cooperates with a child protection team or DSS in investigation, placement or a treatment plan.

Immunity does not extend to any person alleged to have committed an act or acts of child abuse or neglect. *SDCL 26-8A-14*

Any person required to make a report involving an abused or neglected child, or who is required to report a child who has died as a result of child abuse and neglect but who knowingly and intentionally fails to do so, is guilty of a Class 1 misdemeanor. *SDCL 26-8A-3*

Disclaimer:
This publication is only intended as a summary of the laws relating to mandatory reporting in South Dakota and is not intended to convey legal advice.

SDCL Chapter 26-8A is the controlling law in this matter and should be cited and referred to in the event that further explanation or interpretation is required.

Report Child Abuse or Neglect

877.244.0864

To report an emergency situation regarding child abuse or neglect before 8 a.m., after 5 p.m., on the weekends or during a holiday, please contact local law enforcement.

For more information regarding mandatory reporting:

Email
CPS@state.sd.us

Online
dss.sd.gov/childprotection

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Mandatory Reporting

of Child Abuse and Neglect in South Dakota

South Dakota Department of Social Services

Mandatory Reporters

A mandatory reporter is an individual or agency who is required by state law to report any instance where he or she has reasonable cause to suspect that a child under the age of 18 has been abused or neglected.

Mandatory reporters must report the instance to the state's attorney of the county in which the child resides or is present, the Department of Social Services (DSS) or law enforcement officers.

State law provides that the following individuals or agencies are mandated to report to the appropriate authority instances where they have reasonable cause to suspect that a child under the age of 18 has been abused or neglected:

- physician
- dentist, optometrist or podiatrist
- doctor of osteopathy
- chiropractor
- emergency medical technician or paramedic
- mental health professional or counselor
- psychologist
- religious healing practitioner
- social worker
- hospital intern or resident
- parole or court services officer
- law enforcement officer
- teacher, school counselor or school official nurse
- licensed or registered child welfare provider
- employee or volunteer of a domestic abuse shelter
- chemical dependency counselor
- coroner
- Employee or volunteer of a child advocacy organization or child welfare service provider
- any safety-sensitive position as defined in SDCL 3-6C-1, which includes any custody staff employed by any agency responsible for the rehabilitation or treatment of any adjudicated adult or juvenile. *SDCL 26-8A-4*



State law also requires any person who has reasonable cause to suspect a child has died as a result of child abuse or neglect shall report the information to the medical examiner or coroner in addition to reporting the information to the state's attorney, DSS or law enforcement. *SDCL 26-8A-4*

Definition of an Abused or Neglected Child

South Dakota state law defines an abused or neglected child as a child whose parent, guardian or custodian has:

- Abandoned the child or has subjected the child to mistreatment or abuse;
- Failed or refused to provide proper or necessary subsistence, supervision, education, medical care or any other care necessary for the child's health, guidance or well-being;
- Subjected the child to sexual abuse, molestation or exploitation (including such conduct by any other person responsible for the child's care); or
- By their acts or omissions resulted in the child lacking proper parental care.

An abused or neglected child is also defined as a child:

- Whose environment is injurious to the child's safety and well-being;
- Who is threatened with substantial harm;
- Who is homeless, without proper care or not domiciled with the child's parent, guardian or custodian through no fault of the child's parent, guardian or custodian;
- Who has sustained emotional harm or mental injury as indicated by an injury to the child's intellectual or psychological capacity evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture; or
- Who was subject to prenatal exposure to abusive use of alcohol, marijuana or any controlled drug or substance not lawfully prescribed by a practitioner; or
- Whose parent, guardian, or custodian knowingly exposes the child to an environment being used for the manufacture, use, or distribution of methamphetamines or any other unlawfully manufactured controlled drug or substance. *SDCL 26-8A-2*

Reporting Abuse or Neglect

The reports required shall be made orally and immediately by telephone or otherwise to the state's attorney of the county in which the child resides or is present, to the Department of Social Services (DSS) or to law enforcement officers.

The state's attorney or law enforcement officers, upon receiving a report, shall immediately notify DSS. Any person receiving the report of suspected child abuse or neglect shall keep the report confidential unless otherwise provided. *SDCL 26-8A-8*

DSS shall be the central registry for such information. *SDCL 26-8A-10*

A report made to the Department shall include:

- Name, address, date and place of birth of the child.
- Name and address of the child's parents, guardian, custodian or responsible persons.
- Date of the report.
- Suspected or proven instances of child abuse or neglect.

The person receiving a report alleging child abuse or neglect shall ask whether or not the reporting party desires a response report.

If requested by the reporting person, DSS or the concerned law enforcement officer shall issue within 30 days a written acknowledgement of receipt and a response stating whether or not the report will be investigated.

