

Mandatory Reporting Requirements: Children Texas

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Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • Any person or “Professional” (as defined below).
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • Reasonable cause to believe that a child’s physical or mental health or welfare has been or may be adversely affected by abuse or neglect. <p>Where does it go?</p> <ul style="list-style-type: none"> • Any local or state law enforcement agency, the Texas Department of Family and Protective Services at 1-800-252-5400 or online at: https://www.txabusehotline.org, or the state agency that operates, licenses, certifies or registers the facility in which the alleged abuse or neglect occurred. A report may be made to the Texas Juvenile Justice Department instead of the entities listed above, if the report is based on information provided by a child while under the supervision of the Texas Juvenile Justice Department concerning the child’s alleged abuse of another child. Subject to certain exceptions, a report must be made to the Texas Department of Family and Protective Services if the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child. • If a physician or physician's agent has reasonable cause to believe that a minor has been physically or sexually abused, the physician or physician's agent shall immediately report the suspected abuse and the name of the abuser to the Department of Family and Protective Services and to a local law enforcement agency and shall refer the minor to the department for services or intervention that may be in the best interest of the minor. The local law enforcement agency shall respond and shall write a report within 24 hours of being notified of the alleged abuse. A report shall be made regardless of whether the local law enforcement agency knows or suspects that a report about the abuse may have previously been made.
What definitions are important to know?	<ul style="list-style-type: none"> • “Abuse” includes the following acts or omissions by a person: <ul style="list-style-type: none"> • mental or emotional injury to a child that results in an observable and material impairment in the child’s growth, development, or psychological functioning; • causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child’s growth, development, or psychological functioning; • physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

- failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
 - sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or disabled individual, indecency with a child, sexual assault, or aggravated sexual assault;
 - failure to make a reasonable effort to prevent sexual conduct harmful to a child;
 - compelling or encouraging the child to engage in sexual conduct, including conduct that constitutes an offense of trafficking of persons, solicitation of prostitution, or compelling prostitution;
 - causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene or pornographic;
 - the current use by a person of a controlled substance, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;
 - causing, expressly permitting, or encouraging a child to use a controlled substance;
 - causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code;
 - knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked, or the failure to make a reasonable effort to prevent a child from being trafficked; or Forcing or coercing a child to enter into marriage
- **“Child”** or **“minor”** means a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.
 - **“Neglect”** means an act or failure to act by a person responsible for a child's care, custody, or welfare evidencing the person's blatant disregard for the consequences of the act or failure to act that results in harm to the child or that creates an immediate danger to the child's physical health or safety and includes:
 - the leaving of a child in a situation where the child would be exposed to immediate danger of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;
 - the following acts or omissions by a person:
 - placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or immediate danger of harm to the child;
 - failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting an immediate danger of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;
 - the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;
 - placing a child in or failing to remove the child from a situation in which the child would be

- exposed to an immediate danger of sexual conduct harmful to the child; or
- placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse committed against another child
- the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away; or
- a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

“Neglect” does *not* include

- the refusal by a person responsible for a child's care, custody, or welfare to permit the child to remain in or return to the child's home resulting in the placement of the child in the conservatorship of the department if:
 - the child has a severe emotional disturbance;
 - the person's refusal is based solely on the person's inability to obtain mental health services necessary to protect the safety and well-being of the child; and
 - the person has exhausted all reasonable means available to the person to obtain the mental health services necessary to protect the safety and well-being of the child.
- allowing the child to engage in independent activities that are appropriate and typical for the child's level of maturity, physical condition, developmental abilities, or culture
- a decision by a person responsible for a child's care, custody, or welfare to: (a) obtain an opinion from more than one medical provider relating to the child's medical care; (b) transfer the child's medical care to a new medical provider; or (c) transfer the child to another health care facility.

The refusal of a parent, guardian, or managing or possessory conservator of a child to administer or consent to the administration of a psychotropic medication to the child, or to consent to any other psychiatric or psychological treatment of the child, does not by itself constitute neglect of the child unless the refusal to consent: (1) presents a substantial risk of death, disfigurement, or bodily injury to the child; or (2) has resulted in an observable and material impairment to the growth, development, or functioning of the child.

- **“Person responsible for a child's care, custody, or welfare”** means a person who traditionally is responsible for a child's care, custody, or welfare, including:
 - a parent, guardian, managing or possessory conservator, or foster parent of the child;
 - a member of the child's family or household;
 - a person with whom the child's parent cohabits;
 - school personnel or a volunteer at the child's school;
 - personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides; or

	<ul style="list-style-type: none"> • an employee, volunteer, or other person working under the supervision of a licensed or unlicensed child-care facility, including a family home, residential child-care facility, employer-based day-care facility, or shelter day-care facility. • “Prescribed pediatric extended care center” means a facility operated for profit or on a nonprofit basis that provides non-residential basic services to four or more medically dependent or technologically dependent minors who require the services of the facility, and who are not related by blood, marriage or adoption to the owner or operator of the facility. • “Professional” means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers and juvenile detention and correctional officers. • “Severe emotional disturbance” means a mental, behavioral, or emotional disorder of sufficient duration to result in functional impairment that substantially interferes with or limits a person’s role or ability to function in family, school, or community activities.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Reports must be made immediately. • Professionals with reasonable cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Section 21.11, Penal Code, and the professional has cause to believe that the child has been abused as defined by Section 261.001, must report the suspected abuse no later than 48 hours after first has reasonable cause to believe that the child has been abused or neglected.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • The report should reflect the reporter’s belief that a child has been or may be abused or neglected or has died of abuse or neglect. To the extent known, it should also include: <ul style="list-style-type: none"> • The name and address of the child; • The name and address of the person responsible for the care, custody or welfare of the child; and • Any other pertinent information concerning the alleged or suspected abuse or neglect.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Knowingly failing to report is a Class A misdemeanor if the person is required to make a report and knowingly fails to do so. This offense is a Class A misdemeanor, punishable by a fine not to exceed \$4,000, confinement in jail for a term not to exceed 1 year, or both. The offense becomes a state jail felony if it is shown at trial that the child had an intellectual disability, resided in a state-supported living center, and the actor knew that the child had suffered serious bodily injury as a result of the abuse or neglect. The offense also becomes a state jail felony if the person who was required to report is a professional and it is shown at trial that the actor intended to conceal the abuse or neglect., if it is shown on the trial of the offense that the actor intended to conceal the abuse or neglect • The reporting requirements apply without exception to individuals whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, an employee or member of a board that licenses or certifies a professional, and an employee of a clinic or health care facility that provides reproductive services. • The professional may not delegate to or rely on another person to make the report. • In addition to the aforementioned duty to report (for any person and professionals), a person or

professional must make a report if they have cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health or safety of another child or an elderly or disabled person (as defined by Section 48.002, Human Resources Code).

- An employer may not suspend or terminate the employment of, or otherwise discriminate against, a person who is a professional and who in good faith: (1) reports child abuse or neglect to: (A) the person's supervisor; (B) an administrator of the facility where the person is employed; (C) a state regulatory agency; or (D) a law enforcement agency; or (2) initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect. A person whose employment is suspended or terminated or who is otherwise discriminated against in violation of this section may sue for injunctive relief, damages, or both.
- A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from civil or criminal liability that might otherwise be incurred or imposed.
- A person who reports the person's own abuse or neglect of a child or who acts in bad faith or with malicious purpose in reporting alleged child abuse or neglect is not immune from civil or criminal liability.
- A person commits an offense if, with the intent to deceive, the person knowingly makes a false report. An offense is a state jail felony unless it is shown on the trial of the offense that the person has previously been convicted of false reporting, in which case the offense is a felony of the third degree. A person convicted of false reporting must pay any reasonable attorney's fees incurred by the person who was falsely accused of abuse or neglect in any proceeding relating to the false report and is liable for a \$1,000 civil penalty.
- Notwithstanding any other law, a judge or justice who, as a result of court proceedings conducted under Section 33.003 or 33.004, has reason to believe that a minor has been or may be physically or sexually abused shall: (1) immediately report the suspected abuse and the name of the abuser to the Department of Family and Protective Services and to a local law enforcement agency; and (2) refer the minor to the department for services or intervention that may be in the best interest of the minor.
- Special rules apply to a prescribed pediatric extended care center. Any person, including an owner or employee of a facility, who has cause to believe that the physical or mental health or welfare of a resident has been or may be adversely affected by abuse, neglect or exploitation caused by another person shall report orally immediately upon learning of the abuse, neglect or exploitation, and shall make a written report no later than the fifth day after the oral report. Each facility shall require each employee, as a condition of employment, to sign a statement that the employee realizes that the employee may be criminally liable for failure to report abuse.
- Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only: (1) as provided by Section 261.201; or (2) to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

Statutory citation(s):

- Tex. Fam. Code §§ 33.0085, 101.003, 261.001, 261.101, 261.102, 261.103, 261.104, 261.106, 261.107, 261.109, 261.110; 261.111, Tex. Health and Safety Code § 248A.001, 260A.001, 260A.002; Tex. Penal Code §§ 12.21.

