

OFFICE OF INSPECTOR GENERAL - LICENSING DIVISION

# Maltreatment of Minors Mandated Reporting

This form may be used by any provider licensed by the Minnesota Department of Human Services, except family child care. The form for family child care providers can be found in eDocs #7634C.

## What to report

- Maltreatment includes egregious harm, neglect, physical abuse, sexual abuse, substantial child endangerment, threatened injury, and mental injury. For definitions refer to [Minnesota Statutes, section 260E.03](#), and pages 3-6 of this document. Maltreatment must be reported if you have witnessed or have reason to believe that a child is being or has been maltreated within the last three years.

## Who must report

- If you work in a licensed facility, you are a “mandated reporter” and are legally required (mandated) to report maltreatment. You cannot shift the responsibility of reporting to your supervisor or to anyone else at your licensed facility.
- In addition, people who are not mandated reporters may voluntarily report maltreatment.

## Where to report

- If you know or suspect that a child is in immediate danger, call 9-1-1.
- Reports concerning suspected maltreatment of children, or other violations of Minnesota Statutes or Rules, in facilities licensed by the Minnesota Department of Human Services, should be made to the Licensing Division’s Central Intake line at 651-431-6600.
- Incidents of suspected maltreatment of children occurring within a family, in the community, at a family child care program, or in a child foster care home, should be reported to the local county social services agency at  
or local law enforcement at

## When to report

- Mandated reporters must make a report to one of the agencies listed above immediately (as soon as possible but no longer than 24 hours).

## Information to report

- A report to any of the above agencies should contain enough information to identify the child involved, any persons responsible for the maltreatment (if known), and the nature and extent of the maltreatment and/or possible licensing violations. For reports concerning suspected maltreatment occurring within a licensed facility, the report should include any actions taken by the facility in response to the incident.

## Failure to report

- A mandated reporter who knows or has reason to believe a child is or has been maltreated and fails to report is guilty of a misdemeanor.
- In addition, a mandated reporter who fails to report serious or recurring maltreatment may be disqualified from a position allowing direct contact with, or access to, persons receiving services from programs, organizations, and/or agencies that are required to have individuals complete a background study by the Department of Human Services as listed in Minnesota Statutes, section 245C.03.

## Retaliation prohibited

- An employer of any mandated reporter is prohibited from retaliating against (getting back at):
  - an employee for making a report in good faith; or
  - a child who is the subject of the report.
- If an employer retaliates against an employee, the employer may be liable for damages and/or penalties.

## Staff training

The license holder must train all mandated reporters on their reporting responsibilities, according to the training requirements in the statutes and rules governing the licensed program. The license holder must document the provision of this training in individual personnel records, monitor implementation by staff, and ensure that the policy is readily accessible to staff, as specified under Minnesota Statutes, section 245A.04, subdivision 14.

## Provide policy to parents

For licensed child care centers, the mandated reporting policy must be provided to parents of all children at the time of enrollment and must be available upon request. The definitions section (p. 3-6) is optional to provide to parents.

*The following sections only apply to license holders that serve children. This does not include family child foster care per [Minnesota Statutes 245A.66, subd. 1](#).*

## Internal review

- When the facility has reason to know that an internal or external report of alleged or suspected maltreatment has been made, the facility must complete an internal review within 30 calendar days and take corrective action, if necessary, to protect the health and safety of children in care.
- The internal review must include an evaluation of whether:
  - related policies and procedures were followed;
  - the policies and procedures were adequate;
  - there is a need for additional staff training;
  - the reported event is similar to past events with the children or the services involved; and
  - there is a need for corrective action by the license holder to protect the health and safety of children in care.

## Primary and secondary person or position to ensure reviews completed

The internal review will be completed by \_\_\_\_\_ . If this individual is involved in the alleged or suspected maltreatment, \_\_\_\_\_ will be responsible for completing the internal review.

## Documentation of internal review

The facility must document completion of the internal review and make internal reviews accessible to the commissioner immediately upon the commissioner's request.

## Corrective action plan

Based on the results of the internal review, the license holder must develop, document, and implement a corrective action plan to correct any current lapses and prevent future lapses in performance by individuals or the license holder.

## Definitions

Found in [Minnesota Statutes, section 260E.03](#)

### **Egregious harm** ([Minnesota Statutes, section 260E.03, subd. 5](#))

"Egregious harm" means harm under [section 260C.007, subdivision 14](#), or a similar law of another jurisdiction.

[Minnesota Statutes, section 260C.007, Subd. 14](#):

"Egregious harm" means the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care. The egregious harm need not have occurred in the state or in the county where a termination of parental rights action is otherwise properly venued. Egregious harm includes, but is not limited to:

1. conduct towards a child that constitutes a violation of sections [609.185](#) to [609.2114](#), [609.222, subdivision 2](#), [609.223](#), or any other similar law of any other state;
2. the infliction of "substantial bodily harm" to a child, as defined in section [609.02, subdivision 7a](#);
3. conduct towards a child that constitutes felony malicious punishment of a child under [section 609.377](#);
4. conduct towards a child that constitutes felony unreasonable restraint of a child under [section 609.255, subdivision 3](#);
5. conduct towards a child that constitutes felony neglect or endangerment of a child under [section 609.378](#);
6. conduct towards a child that constitutes assault under section [609.221](#), [609.222](#), or [609.223](#);
7. conduct towards a child that constitutes solicitation, inducement, or promotion of, or receiving profit derived from prostitution under [section 609.322](#);
8. conduct towards a child that constitutes murder or voluntary manslaughter as defined by United States Code, title 18, section 1111(a) or 1112(a);
9. conduct towards a child that constitutes aiding or abetting, attempting, conspiring, or soliciting to commit a murder or voluntary manslaughter that constitutes a violation of United States Code, title 18, section 1111(a) or 1112(a); or
10. conduct toward a child that constitutes criminal sexual conduct under [sections 609.342](#) to [609.345](#).

### **Maltreatment** ([Minnesota Statutes, section 260E.03, subd. 12](#))

"Maltreatment" means any of the following acts or omissions:

1. egregious harm under subdivision 5;
2. neglect under subdivision 15;
3. physical abuse under subdivision 18;
4. sexual abuse under subdivision 20;
5. substantial child endangerment under subdivision 22;
6. threatened injury under subdivision 23;
7. mental injury under subdivision 13; and
8. maltreatment of a child in a facility.

### **Mental injury** ([Minnesota Statutes, section 260E.03, subd. 13](#))

"Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

## **Neglect** ([Minnesota Statutes, section 260E.03, subd. 15](#))

- A. "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (8), other than by accidental means:
1. failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;
  2. failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
  3. failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;
  4. failure to ensure that the child is educated as defined in sections [120A.22](#) and [260C.163, subdivision 11](#), which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section [125A.091, subdivision 5](#);
  5. prenatal exposure to a controlled substance, as defined in section [253B.02, subdivision 2](#), used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance, or the presence of a fetal alcohol spectrum disorder;
  6. medical neglect, as defined in section [260C.007, subdivision 6](#), clause (5);
  7. chronic and severe use of alcohol or a controlled substance by a person responsible for the child's care that adversely affects the child's basic needs and safety; or
  8. emotional harm from a pattern of behavior that contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.
- B. Nothing in this chapter shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care.
- C. This chapter does not impose upon persons not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care a duty to provide that care.

## **Physical abuse** ([Minnesota Statutes, section 260E.03, subd. 18](#))

- A. "Physical abuse" means any physical injury, mental injury under subdivision 13, or threatened injury under subdivision 23, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section [125A.0942](#) or [245.825](#).
- B. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian that does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section [121A.582](#).
- C. For the purposes of this subdivision, actions that are not reasonable and moderate include, but are not limited to, any of the following:
1. throwing, kicking, burning, biting, or cutting a child;
  2. striking a child with a closed fist;
  3. shaking a child under age three;
  4. striking or other actions that result in any nonaccidental injury to a child under 18 months of age;
  5. unreasonable interference with a child's breathing;
  6. threatening a child with a weapon, as defined in [section 609.02, subdivision 6](#);

7. striking a child under age one on the face or head;
8. striking a child who is at least age one but under age four on the face or head, which results in an injury;
9. purposely giving a child:
  - i. poison, alcohol, or dangerous, harmful, or controlled substances that were not prescribed for the child by a practitioner in order to control or punish the child; or
  - ii. other substances that substantially affect the child's behavior, motor coordination, or judgment; that result in sickness or internal injury; or that subject the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
10. unreasonable physical confinement or restraint not permitted under [section 609.379](#), including but not limited to tying, caging, or chaining; or
11. in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section [121A.58](#).

## **Sexual abuse** ([Minnesota Statutes, section 260E.03, subd. 20](#))

"Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, or by a person in a current or recent position of authority, to any act that constitutes a violation of section [609.342](#) (criminal sexual conduct in the first degree), [609.343](#) (criminal sexual conduct in the second degree), [609.344](#) (criminal sexual conduct in the third degree), [609.345](#) (criminal sexual conduct in the fourth degree), [609.3451](#) (criminal sexual conduct in the fifth degree), or [609.352](#) (solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children).

Sexual abuse also includes any act involving a child that constitutes a violation of prostitution offenses under sections [609.321](#) to [609.324](#) or [617.246](#). Sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section [609.321](#), subdivisions 7a and 7b.

Sexual abuse includes threatened sexual abuse, which includes the status of a parent or household member who has committed a violation that requires registration as an offender under section [243.166, subdivision 1b](#), paragraph (a) or (b), or required registration under section [243.166, subdivision 1b](#), paragraph (a) or (b).

## **Substantial child endangerment** ([Minnesota Statutes, section 260E.03, subd. 22](#))

"Substantial child endangerment" means that a person responsible for a child's care, by act or omission, commits or attempts to commit an act against a child under their care that constitutes any of the following:

1. egregious harm under subdivision 5;
2. abandonment under section [260C.301, subdivision 2](#);
3. neglect under subdivision 15, paragraph (a), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
4. murder in the first, second, or third degree under section [609.185](#), [609.19](#), or [609.195](#);
5. manslaughter in the first or second degree under section [609.20](#) or [609.205](#);
6. assault in the first, second, or third degree under section [609.221](#), [609.222](#), or [609.223](#);
7. solicitation, inducement, and promotion of prostitution under section [609.322](#);
8. criminal sexual conduct under sections [609.342](#) to [609.3451](#);
9. solicitation of children to engage in sexual conduct under section [609.352](#);
10. malicious punishment or neglect or endangerment of a child under section [609.377](#) or [609.378](#);
11. use of a minor in sexual performance under section [617.246](#); or
12. parental behavior, status, or condition that mandates that the county attorney file a termination of parental rights petition under section [260C.503, subdivision 2](#).

## **Threatened injury** ([Minnesota Statutes, section 260E.03, subd. 23](#))

- A. "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.
- B. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in subdivision 17, who has:
  - 1. subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm under subdivision 5 or a similar law of another jurisdiction;
  - 2. been found to be palpably unfit under section [260C.301, subdivision 1](#), paragraph (b), clause (4), or a similar law of another jurisdiction;
  - 3. committed an act that resulted in an involuntary termination of parental rights under section [260C.301](#), or a similar law of another jurisdiction; or
  - 4. committed an act that resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under Minnesota Statutes 2010, section [260C.201](#), subdivision 11, paragraph (d), clause (1), section [260C.515, subdivision 4](#), or a similar law of another jurisdiction.
- C. A child is the subject of a report of threatened injury when the local welfare agency receives birth match data under section [260E.14, subdivision 4](#), from the Department of Human Services.