

APPLICABLE LAWS OF THE STATE OF NEVADA
(Revised March 2004)

1. MANDATORY REPORTING

What does the mandatory reporting statute require?

The mandatory reporting statute requires that a “mandatory reporter” (defined below), who knows or has reasonable cause to believe that a child had been abused or neglected (defined below), to make a report of the abuse or neglect to an appropriate law enforcement or child welfare agency (as directed below). See NRS 432B.220

A person has “reasonable cause to believe” that abuse has occurred if, in light of all the surrounding facts and circumstances which are known or reasonably should be known to the person at the time, a reasonable person would believe abuse is occurring or has occurred. See NRS 432B.121

This report must be made as soon as reasonably practical, but in no event later than 24 hours after acquiring the knowledge of the abuse. See NRS 432B.220. “As soon as reasonably practical” means that considering the surrounding facts and circumstances, a reasonable person would act within approximately the same time period. See NRS 432B.121

Who is a mandatory reporter?

The following people are considered mandatory reporters under the statute:

- (1) physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this state;
- (2) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital;
- (3) A coroner;
- (4) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession;
- (5) A social worker and an administrator, teacher, librarian or counselor of a school;
- (6) Any person who maintains or is employed by a facility or establishment that provides care for children, children’s camp or other public or private facility, institution or agency furnishing care to a child;
- (7) Any person licensed to conduct a foster home;’
- (8) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer;
- (9) Any attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect;
- (10) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met; and
- (11) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, “approved youth shelter” has the meaning ascribed to it in NRS 244.422.

Additionally, a report may be made by any other person. See NRS 432B.220.

Who is considered a “child”?

Any person under the age of 18 is considered a child for purposes of these laws. See NRS 432B.040

What constitutes “abuse” or “neglect”?

Abuse or neglect of a child means:

Physical or mental injury of a non-accidental nature:

A physical injury includes:

- I. A sprain or dislocation
- II. Damage to cartilage
- III. A fracture of a bone or the skull
- IV. An intracranial hemorrhage or injury to another internal organ
- V. A burn or scalding
- VI. A cut, laceration, puncture or bite
- VII. Permanent or temporary disfigurement or
- VIII. Permanent or temporary loss or impairment of a part of organ of the body. See NRS432B.090

A mental injury means an injury to the child’s intellectual or psychological capacity. A mental injury also includes a child’s emotional condition if the child has a substantial impairment in his ability to function within his normal range of performance or behavior. See NRS 432B.070

Sexual abuse or sexual exploitation:

Sexual abuse includes acts upon a child that are:

- I. Incest
- II. Lewdness with a child
- III. Sado-masochistic abuse
 - Sado-masochistic abuse means:*
 - a. *Flagellation or torture practiced by or upon a person whether or not that person is wearing undergarments or a costume, or*
 - b. *Being fettered, bound or otherwise physically restrained. See NRS 201.262*
- IV. Sexual assault
 - Sexual assault occurs when one person subjects another person to sexual penetration or forces another person to make a sexual penetration on himself or another against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct. See NRS 200.366(1)
 - a. “Sexual penetration” means sexual intercourse in its ordinary meaning. Sexual penetration also includes cunnilingus, fellatio, or any intrusion, however slight, of any part of a person’s body or any object manipulated or inserted by a person into the genital or anal openings of the body of another. See NRS 200.364(2).
- V. Statutory sexual seduction
 - Statutory sexual seduction includes:
 - b. Ordinary sexual intercourse, anal intercourse, cunnilingus or fellatio committed by a person 18 years of age or older with a person under the age of 16 or

- c. Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either people. See NRS 200.364(3).
- VI. Open or gross lewdness and
- VII. Mutilation of the genitalia of a female child or aiding, abetting, encourage or participating in the mutilation of the genitalia of a female child. Additionally, removing a female child from the state in order to mutilate the child's genitalia.

Sexual exploitation includes forcing, allowing or encouraging a child:

- I. To solicit for or engage in prostitution
- II. To view a pornographic film or literature
- III. To engage in filming, photographing or recording on videotape which involves the exhibition of a child's genitals or any sexual conduct with a child.
 - o Sexual conduct means:
 - 1. Ordinary sexual intercourse
 - 2. Anal intercourse
 - 3. Fellatio, cunnilingus or other oral-genital contact
 - 4. Physical contact by a person with the unclothed genitals or pubic area or another person for the purpose of arousing or gratifying the sexual desire of either person
 - 5. Penetration, however slight, by a person of an object into the genital or anal opening of the body of another person for the purpose of arousing or gratifying the sexual desire of either person
 - 6. Masturbation or the lewd exhibition of unclothed genitals
 - 7. Sado-masochistic abuse. See NRS 201-520
- IV. To engage in posing, modeling, depiction or a live performance before an audience which involves the exhibition of a child's genitals or any sexual conduct with a child. See NRS 432B.110

(3) Negligent treatment or maltreatment

Negligent treatment or maltreatment of a child occurs if a child:

- I. Has been abandoned
- II. Is without proper care, control and supervision
- III. Lacks the subsistence, education, shelter, medical care or other care necessary for the well-being of the child because the person responsible for his welfare neglects or refuses to provide when they are able to do so. See NRS 432B.140

See NRS 432B. 020

To whom do I report?

Except as provided below, the report of the abuse or neglect of the child must be made to an agency which provides child welfare services or to a law enforcement agency.

However, if a person who is required to make a report (as outlined above) knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of a person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, that person must make the report to a law enforcement agency.

In addition, if a person who is required to make a report (as outlined above) knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of an agency which provides child welfare services or a law enforcement agency, the person must make the report to an agency other than the one alleged to have committed the act or omission. The investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission. See NRS 432B.220

Reports of the death of a child

If a person who is required to make a report (as outlined above) knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person must, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner. The appropriate medical examiner or coroner must then investigate the report and submit his written findings to an agency which provides child welfare services. See NRS 432B.220

How do I make a report?

A person may make a report by:

1. Telephone
2. In light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, by any other means of oral, written, or electronic communication that a reasonable person would believe, under those facts and circumstances, is a reliable and swift means of communicating information to the person who receives the report.

If the report is made orally, the person who receives the report must reduce it to writing as soon as reasonably practicable. See NRS 432B.230

What must the report contain?

The report must contain the following information, if obtainable:

1. Name, address, age, and sex of the child
2. Name and address of the child's parents or other person responsible for his care
3. The Nature and extent of the abuse or neglect of the child
4. Any evidence of previously known or suspect abuse or neglect of the child or the child's siblings
5. The name, address, and relationship, if known, of the person who is alleged to have abused or neglected the child and
6. Any other information known to the person making the report that the agency which provides child welfare services considers necessary

Will the report that I make be confidential?

All reports made as outlined above, as well as all records concerning the report and investigation, are confidential. In fact, any person (including law enforcement, an institution or a facility) who willfully releases information concerning the report may be guilty of a misdemeanor, with some exception. See NRS 432B.2380

What if I fail to make the report as outlined above?

Any person who knowingly and willfully violates the provisions of the reporting statute is guilty of a misdemeanor. See NRS 432B.220

To the contrary, immunity from civil or criminal liability will extend to every person who makes a report as outlined above in good faith. See NRS 432B.160.bg

SEXUAL INTERACTION WITH MINORS

The sexual interaction outlined above that must be reported is prohibited interaction and can result in criminal and civil penalties. Nevada law is specific as to the sexual interaction that will result in criminal prosecution. Such interaction includes:

1. Sexual Assault

A person who subjects another person to sexual penetration or forces another person to make a sexual penetration on himself or another against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct is guilty of sexual assault. See NRS 200.366(1)

1. Sexual Penetration means sexual intercourse in its ordinary meaning. Sexual penetration also includes cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another. See NRS 200.364(2)

2. Statutory Sexual Seduction

- i. A person who commits statutory sexual seduction will be punished for either a felony or gross misdemeanor
- ii. *Statutory sexual seduction includes:*
 1. Ordinary sexual intercourse, anal intercourse, cunnilingus or fellatio committed by a person 18 years of age or older with a person under the age of 16 or
 2. Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either people. See NRS 200.364(3).

3. Solicitation of a Minor

- i. A person who incites, entices or solicits a minor to engage in acts which constitute the infamous crime against nature will be guilty of a felony, even if the minor did not engage in such acts. See NRS 201.195
- ii. The "infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex. Any sexual penetration, however slight, is sufficient to complete the infamous crime against nature. See NRS 210.195

4. Lewdness

- i. A person who willfully and lewdly commits any lewd or lascivious act upon or with the body or any part of the body of a child under the age of 14 years, with the intent of arousing, appealing to or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of lewdness with a child. See NRS 201.230.

5. Distribution of harmful material

- i. A person is guilty of a misdemeanor (unless the person is the parent, guardian or spouse of the minor) if the person knowingly:
 1. Distributes or causes to be distributed to a minor material that is harmful to minors or
 2. Exhibits material that is harmful to minors in such a manner or location as to allow a minor to view or to have access to the material or
 3. Sells a ticket, pass or otherwise admits a minor to any presentation of material that is harmful to minors or
 4. Misrepresents that he is the parent, guardian or spouse of a minor for purposes of accomplishing the above prohibited acts or
 5. Misrepresents that he is 18 or over for purposes of obtaining material that is harmful to minors. See NRS 201.265.

- ii. “Harmful to minors” means that the quality of the material is patently offensive to the prevailing standards in the adult community with respect to what is suitable material for minors. In addition, the material lacks serious literary, artistic, political or scientific value. See NRS 201.257.

- iii. “Material” means:
 1. A book, pamphlet, magazine, newspaper, printed advertising or other printed or written material
 2. A motion picture, photograph, picture, drawing, statue, sculpture or other visual representation or image, or
 3. A transcription, recording or live or recorded telephone message. See NRS 201.2581.

6. Indecent or Obscene Exposure

- i. A person who makes any open and indecent or obscene exposure of his person or of the person of another is guilty of a gross misdemeanor or a felony. See NRS 201.220

(Engaging in any of the above outlined conduct will result in criminal prosecution and can also result in civil liability. Additionally, even if sexual interaction does not constitute a crime under Nevada law, civil liability could be imposed for any violation of Diocesan policy.)

SEXUAL INTERACTION BETWEEN STUDENTS AND SCHOOL EMPLOYEES OR VOLUNTEERS

What type of interaction does the law forbid?

The law forbids any person who is 21 years of age or older and employed or volunteering in a position of authority by a public or private school to engage in sexual conduct with a pupil who is 16 or 17 years of age who is enrolled in or attending the same school at which the person is employed or volunteering.

Continued

Who is “employed in a position of authority” or a “volunteer”?

A person is deemed to be employed in a position of authority or volunteering and therefore prohibited from the interaction outlined above if the person is:

1. A teacher or instructor
2. An administrator
3. A head or assistant coach or
4. A teacher’s aide or an auxiliary, nonprofessional employee who assists licensed personnel in the instruction or supervision of pupils.

See NRS 201.540