

To: Mandated Reporters
From: Cindy Walcott, Deputy Commissioner, Family Services Division
Date: July 22, 2015
Subject: Changes to Mandated Reporting and Information Sharing in S.9/Act 60

Act 60 (formerly known as S.9) is in effect as of July 1, 2015. This legislation makes improvements across the child protection system, including changes to mandated reporting procedures and information sharing across the system.

This memo includes updated information and guidance for mandated reporters. Please help us make sure other mandated reporters in your organization, including staff and colleagues, have this information. *Share it!*

A mandated reporter is any:

- Health care provider, including any chiropractor, dentist, emergency medical personnel, hospital administrator, intern, licensed practical nurse, medical examiner, osteopath, pharmacist, physician, physician assistant, psychologist, registered nurse, resident physician, and surgeon;
- Individual who is a) employed by a school district or an approved or recognized independent school or b) contracted and paid by a school district or an approved or recognized independent school to provide student services, including any school superintendent, school principal, headmaster of an approved or recognized independent school, school teacher, student teacher, school librarian, and school guidance counselor;
- Agency of Human Services employee, contractor, or grantee who has contact with clients;
- Camp administrator, counselor, and owner, including any residential and nonresidential camp and recreational program;
- Childcare worker, clergy member, mental health professional, and social worker; and
- Police officer and probation officer.

Mandated Reporter Webpage: Visit mandatedreporters.vt.gov to get the latest information on reporting, a sign-up for email updates, links to relevant information, and a link to online training once it's available.

Mandated Reporter Training: We are working on a web-based training for mandated reporters that should be available in fall 2015. In the meantime, please direct any training requests to your local Family Services District Office. A list of our offices is available at mandatedreporters.vt.gov (*click on the link for FSD District Offices*).

The Family Services Division (FSD) of the Department for Children and Families (DCF) shares an important responsibility with all Vermonters: keeping children safe and ensuring they live in safe, supportive, and healthy environments. Accomplishing these goals requires cooperation between FSD and mandated reporters. We are grateful for your continued collaboration and support, and we believe the changes in Act 60 will make our partnership better.

Please contact Lindsay Barron at Lindsay.Barron@state.vt.us if you have questions about this memo.

Please Note: while the Statute that governs reporting in Vermont is cited throughout this memo (e.g., 33 VSA § 4913), it will not be updated on the "Vermont Statutes Online" website until late fall. In the meantime, please refer to Act 60 if you want more detailed information about the law. You can access it from the mandatedreporters.vt.gov webpage.

I. Reporting Child Abuse or Neglect

Act 60 resulted in important changes to reporting requirements. Additionally, some definitions of abuse and neglect were revised (see Section II below).

The new reporting standard is:

Any mandated reporter who reasonably suspects abuse or neglect of a child shall report in accordance with the provisions of section 4914 of this title within 24 hours of the time information regarding the suspected abuse or neglect was first received or observed (33 VSA § 4913(c)).

This revised standard includes some important changes:

- ⇒ The previous standard (“have reasonable cause to believe” a child has been abused or neglected) is no longer in effect. A report now must be made when a mandated reporter “reasonably suspects” abuse and neglect.
- ⇒ The individual who suspects abuse or neglect must make a report directly; it is no longer sufficient to “cause a report to be made”.
- ⇒ A report must be made within 24 hours of the time information about suspected abuse or neglect was first received or observed. Calling law enforcement is not the same as reporting suspected abuse or neglect to FSD. You must notify FSD directly.
- ⇒ While organizations may have their own policies related to notifying supervisors or management about suspected child abuse or neglect, individual mandated reporters are legally required to report suspected child abuse and neglect to FSD within 24 hours. Each mandated reporter is responsible for making a report on time and is liable if one is not made. No one, including supervisors and managers, may prevent a mandated reporter from making a report within the required timeframe.

Liability: A person who files a report in good faith has immunity from any criminal or civil liability. Failure of a mandated reporter to report can result in criminal prosecution and a fine of up to \$500. If a mandated reporter failed to report with the intent to conceal the abuse or neglect, the penalty increases to up to six months in prison and a fine of up to \$1,000 (33 VSA §4913).

Group Reporting: If more than one individual within an organization needs to make a report about the same information or incident, FSD strongly recommends they report as a group — by phone or in writing. *The same 24-hour time limit applies.*

- I. The best way to ensure a staff or team has met their legal responsibility is by having everyone with direct knowledge of the information in the room together when the report is made. The names of everyone who is in the room making the report should be clearly communicated to FSD.
- II. Another option is for one person to draft a written report and have everyone involved sign it.

When In Doubt:

Please call us for advice if you:

- Are not sure a report is warranted; or
- Are considering telling the parents about your report. In some cases, this could endanger the child and hinder the response.

“Reasonably suspects abuse or neglect of a child” means that you need only suspect that abuse or neglect might have taken place to make a report. *When in doubt, report!*

To report child abuse or neglect, call 1-800-649-5285 or fax a written report to (802) 241-3301 – 24 hours a day, 7 days a week. If a child is in immediate danger, dial 911 or your local police first. Then, call FSD to make a report.

II. Definitions of Abuse and Neglect

Act 60 made some changes to child abuse definitions. This will impact how FSD screens intakes, conducts child safety interventions and makes substantiation decisions. While many of the new terms also have definitions in the criminal code, FSD definitions are not the same as those in the criminal code.

The following definitions were either added or revised by Act 60 (33 VSA § 4912):

- ⇒ **An abused or neglected child** (revised definition): One whose physical health, psychological growth and development or welfare is harmed or is at substantial risk of harm by the acts or omissions of his or her parent or other person responsible for the child's welfare. It also means a child who is sexually abused or at substantial risk of sexual abuse by any person and a child who has died as a result of abuse or neglect.
- ⇒ **Serious physical injury** (new statutory definition): means, by other than accidental means:
 - A. Physical injury that creates any of the following:
 - i. A substantial risk of death;
 - ii. A substantial loss or impairment of the function of any bodily member or organ;
 - iii. A substantial impairment of health; or
 - iv. Substantial disfigurement; or
 - B. Strangulation by intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person (33 VSA § 4912(17)).
- ⇒ **Risk of harm** (revised definition): A significant danger that a child will suffer serious harm by other than accidental means, which harm would be likely to cause physical injury or sexual abuse, including as the result of:
 - A. A single, egregious act that has caused the child to be at significant risk of serious physical injury;
 - B. The production or reproduction of methamphetamines when a child is actually present;
 - C. Failing to provide supervision or care appropriate for the child's age or development and, as a result, the child is at significant risk of serious physical injury;
 - D. Failing to provide supervision or care appropriate for the child's age or development due to use of illegal substances, or misuse of prescription drugs or alcohol;
 - E. Failing to supervise appropriately a child in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child; and
 - F. A registered sex offender or person substantiated for sexually abusing a child residing with or spending unsupervised time with a child (33 VSA § 4912(14)).
- ⇒ **Sexual abuse** (revised definition): Consists of any act or acts by any person involving sexual molestation or exploitation of a child, including:
 - A. Incest;
 - B. Prostitution;
 - C. Rape;
 - D. Sodomy;
 - E. Lewd and lascivious conduct involving a child;
 - F. Aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child;
 - G. Viewing, possessing, or transmitting child pornography, with the exclusion of the exchange of images between mutually consenting minors, including the minor whose image is exchanged;
 - H. Human trafficking;
 - I. Sexual assault;
 - J. Voyeurism;
 - K. Luring a child; or
 - L. Obscenity (33 VSA § 4912(15)).

Refer to FSD Policy 50 for child abuse and neglect definitions. It is available online at mandatedreporters.vt.gov. Click on the link for FSD policies.

III. Information Sharing

Act 60 encourages information sharing across the child protection system. FSD is committed to sharing information with mandated reporters whenever possible to support child safety and facilitate collaboration. We endeavor to make sure individuals who need information can receive it, whether through verbal communication or sharing documents. Unless otherwise noted below, records or information should be provided as soon as reasonably possible following a request.

Any confidential information received cannot be disclosed to a person who is not authorized to receive that information.

FSD is obligated to provide certain records and information to various people and entities. The table below provides an overview of what information may be shared. For more information, refer to Policy 157: Records and Information Sharing. It is available online at mandatedreporters.vt.gov (click on the link for FSD policies).

Type of information	To whom?	By whom, how, when?
Acceptance of a report and track assignment	Mandated reporters	The assigned social worker, promptly as part of child safety intervention
Non-acceptance of a report	Mandated reporters	Centralized Intake, by letter
Whether investigation was substantiated; whether assessment resulted in need for services	Mandated reporters	District Office or Residential Licensing, by letter at the conclusion of a child safety intervention
Records, upon request	The Court, parties to the juvenile proceeding, and the child's guardian ad litem if there is a pending juvenile proceeding or if the child is in the custody of the Commissioner	District Office
	Law enforcement officers engaged in a joint investigation with the Department, Assistant Attorney General, or a State's Attorney	District Office or Residential Licensing, as part of child safety intervention
	Other State agencies conducting related inquiries or proceedings	Central Office
Relevant records or information, upon request <i>Information may be provided verbally, or in writing.</i> <i>Determinations of relevancy shall be made by the Department.</i>	A person, agency, or organization, including empaneled multidisciplinary team authorized to diagnose, care for, treat, or supervise the child or who is responsible for the child's health or welfare	District Office
	Health and mental health care providers working directly with the child or family who is the subject of the report or record	District Office
	Educators working directly with the child or family	District Office
	Licensed or approved foster caregivers for the child	District Office
	Mandated reporters engaged in an ongoing working relationship with the child or family who is the subject of the report	District Office
	A Family Division of the Superior Court involved in any proceeding in which custody of a child or parent-child contact is at issue	District Office
	A Probate Division of the Superior Court involved in guardianship proceedings	District Office
	Other governmental entities for purposes of child protection	Central Office