

## Mandatory Reporting Overview of North Carolina Law

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### Disclosure

The following people have no relevant financial, personal, or professional relationships to disclose:

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There are no commercial supporters of this activity.



## Learning Objectives

- The learner will be able to:
  - Identify who is required to report child abuse or neglect in North Carolina.
  - Explain, in general terms, NC's definitions of "abused juvenile" and "neglected juvenile" and how they relate to the duty to report.
  - Describe the types of injuries and illnesses that must be reported to law enforcement under NC law.



## REPORTING CHILD ABUSE & NEGLECT IN NORTH CAROLINA



## Legal duty to report

- **Any person or institution** who has cause to suspect that a child under age 18 is abused, neglected, or dependent must make a report to the county department of social services.

G.S. 7B-301



## Scope of DSS authority

- In NC, departments of social services are authorized to respond to reports that allege abuse or neglect by a child's **parent, guardian, custodian, or caretaker**
- See definitions of terms in G.S. 7B-101



## Adults responsible for children\*

- **Parent** – adoptive or biological,
- **Guardian** – person appointed by a court to care for the child
- **Custodian** – person or agency with legal custody of a child
- **Caretaker** – someone other than a parent, guardian, or custodian who is responsible for a child in a residential setting

\*For purposes of the child protection laws.



## More on caretakers

- The term “caretaker” includes:
  - Stepparent
  - Foster parent
  - Adult member of the child’s household
  - Adult relative entrusted with child’s care
  - People who supervise children in residential facilities or schools
  - Certain child day-care providers



## Abused juvenile

- Parent, guardian, custodian, or caretaker:
  - Inflicts or allows to be inflicted a non-accidental, serious physical injury
  - Creates or allows to be created a substantial risk of non-accidental, serious physical injury
  - Uses or allows to be used cruel or grossly inappropriate behavior modification methods
  - Commits, permits, or encourages the rape or other sexual abuse of the child
  - Creates or allows to be created serious emotional damage
  - Encourages, directs or approves of certain delinquent acts



## Sexual abuse

- Parent/guardian/custodian/caretaker **commits, permits or encourages:**
  - Rape of the child
  - Sexual offense against the child
  - Sexual act by a custodian
  - Crime against nature
  - Incest
  - Involvement of child in pornography
  - Sexual exploitation of the child
  - Prostitution of the child
  - Taking indecent liberties with the child



## Neglected juvenile

- A child under the age of 18 who:
  - Does not receive proper care, supervision, or discipline from parent/guardian/custodian/caretaker
  - Has been abandoned
  - Is not provided necessary medical or remedial care
  - Lives in an environment injurious to the child’s welfare
  - Has been placed for care or adoption in violation of the law



## Cause to suspect

- Duty to report triggered by facts that cause reporter to **suspect** abuse or neglect:
  - What has the child told you?
  - What have you observed?
  - What other information is available and what does it mean in light of professional experience?
- Not health care provider’s role or duty to investigate facts and produce evidence
- Cause to suspect should be reasonable and provider must act in good faith



## REPORTING TO LAW ENFORCEMENT IN N.C.

## Legal duty to report

- A **physician or administrator of a health care facility** must report:
  - Certain injuries and illnesses that may have been caused by criminal acts
  - Recurrent illness or serious physical injury to a child under age 18, if the illness or injury appears to be due to nonaccidental trauma
- G.S. 90-21.20

## Injuries/illnesses caused by crime

- What must be reported:
  - Gunshot wounds & other firearm-related injuries
  - Illnesses caused by poisoning
  - Wounds or injuries caused by knives/other sharp instruments, if treating physician thinks criminal act involved
  - Grave bodily harm or grave illness, when treating physician thinks the injury or illness was caused by a criminal act of violence
- This requirement applies to patients of all ages.

## Additional reporting for children

- What must be reported:
  - Recurrent illness caused by nonaccidental trauma
  - Serious physical injury caused by nonaccidental trauma
- This reporting requirement applies only to children under age 18
- Separate reports required for DSS and for law enforcement

## STATUTORY RAPE AND OTHER CRIMES

## Statutory rape/sexual offense

- Of child under age 13:
  - Perpetrator at least 12 years old and at least 4 years older than the victim
- Of child age 13, 14, or 15:
  - Perpetrator at least 4 years older than the victim and not married to the victim
  - More serious punishment if perpetrator is 6 or more years older than victim
- G.S. 14-27.2, 14-27.4, 14-27.7A

## Rape/sexual offense of child by an adult

- Child under age 13, perpetrator at least 18
- Rape: vaginal intercourse
- Sexual offense: sexual act other than vaginal intercourse
- G.S. 14-27.2A, 14-27.4A

## Report to DSS?

- Case-by-case determination
- Legal duty to report is triggered if child is an abused or neglected juvenile, as those terms are defined by NC law
- Terms refer to actions or omissions of parents, guardians, custodians or caretakers

## Report to law enforcement?

- Case-by-case determination
- Legal duty to report is triggered by:
  - One of the reportable injuries/illnesses; perhaps especially grave bodily harm or grave illness caused by criminal act of violence
  - Recurrent illness or serious physical injury to a child under age 18, if appears to be caused by nonaccidental trauma

## CONFIDENTIALITY

- Required reports do not violate HIPAA or state medical confidentiality laws
- Immunity from liability when required reports are made in good faith
- Citations to relevant sections of HIPAA and state law in handout