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Archived Webinar

The archived webinar will be available **from May 3, 2016 to April 28, 2018.**

If N.C. laws change, a new webinar will be available. The old webinar will be removed from the WHB website.

Disclosures

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

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Legal duty to report



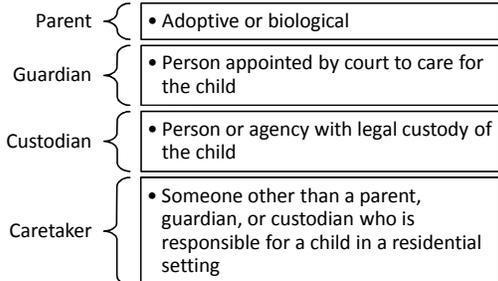
- Any person or institution who has cause to suspect that a child under age 18 is abused, neglected, or dependent must make a report to the county department of social services (DSS).

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



Caretaker (G.S. 7B-101(3))

- 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

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 (DSS).

G.S. 7B-301

Definition: Abused Juvenile

Parent, guardian, custodian, or caretaker:

- | | |
|--|--|
| <ul style="list-style-type: none"> ▪ Inflicts or allows non-accidental serious physical injury ▪ Creates or allows substantial risk of non-accidental serious physical injury ▪ Uses or allows cruel or grossly inappropriate behavior modification methods ▪ Creates or allows serious emotional damage | <ul style="list-style-type: none"> ▪ Commits, permits, or encourages rape or other sexual crimes against child ▪ Encourages, directs or approves of certain delinquent acts ▪ Engages in or permits another to use the child in human trafficking, involuntary servitude, or sexual servitude |
|--|--|

Definition: Neglected Juvenile

- Does not receive proper care, supervision, or discipline from parent, guardian, custodian or 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

Definition: Dependent Juvenile

- Child has no parent, guardian, or custodian responsible for his or her care or supervision
- Child's parent, guardian, or custodian is unable to provide for care or supervision and lacks an appropriate alternative child care arrangement

More on "cause to suspect"

Duty & role of reporter

- Duty to report triggered by facts that cause person to suspect abuse or neglect
- Not HCP's role or duty to investigate facts and produce evidence
- Cause to suspect must be reasonable; report must be in good faith



More on “cause to suspect”



Some things to consider

- What has the adolescent told you about his or her circumstances?
- What else have you observed?
- What other information is available and what does it mean in light of your professional experience?

Making a report



- Name, address, and age of the child
- Name and address of the child’s parent, guardian, or caretaker
- Names and ages of other children under age 18 in the same home
- Present whereabouts of the child if not at the home address
- Nature and extent of any injury or condition resulting from the abuse, neglect, or dependency
- Any other information the reporter believes may be useful in establishing the need for protective services or court intervention

Reports to DSS

Who	• Any person or institution
When	• Cause to suspect a child under 18 is abused, neglected, or dependent
What	• Information specified in GS 7B-301
HIPAA	• Allows report
Liability	• Immunity if report made in good faith
Penalty	• Knowingly or wantonly failing to report is a class 1 misdemeanor

New legal duty to report: Child maltreatment in child care facilities



- Any person or institution who has cause to suspect that a child in a child care facility has been maltreated must make a report to the Department of Health & Human Services.

G.S. 110-105.4

Definition: Child maltreatment

- Acts or omissions that result in harm, potential for harm, or threat of harm to a child, including:
 - Physical abuse
 - Sexual abuse
 - Psychological abuse
 - Failure to properly supervise children which results in potentially harmful environments

G.S. 110-105.3(3)

REPORTS TO LAW ENFORCEMENT



Types of reports

Children < age 16	<ul style="list-style-type: none"> Disappeared and in danger
Children < age 18	<ul style="list-style-type: none"> Recurrent illness Serious physical injury
All ages	<ul style="list-style-type: none"> Wounds, injuries, and illnesses caused by criminal acts

Disappearance of a child Caylee’s Law: G.S. 14-318.5

<p>What “disappearance” means</p> <ul style="list-style-type: none"> When the parent or other person providing supervision of a child does not know the location of the child and has not had contact with the child for a 24-hour period.” 	<p>Legal duty to report</p> <ul style="list-style-type: none"> Disappearance of a child < 16 years old must be reported to law enforcement. Parent/other person responsible for care must report within 24 hours. Any other person who reasonably suspects that a child has disappeared and is in danger must report within a reasonable time.
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Disappearance—reports to law enforcement by persons other than parents

Who	<ul style="list-style-type: none"> Any person
When	<ul style="list-style-type: none"> Reasonably suspect a child under 16 has disappeared and is in danger
What	<ul style="list-style-type: none"> Child’s identity and reasons for suspecting the child has disappeared and is in danger
HIPAA	<ul style="list-style-type: none"> Allows report
Liability	<ul style="list-style-type: none"> Immunity if report made in good faith
Penalty	<ul style="list-style-type: none"> Failing to report is a class 1 misdemeanor

Legal duty to report certain injuries and illnesses

- 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

What must be reported?

▪ All age groups

- Gunshot wounds & other firearm injuries
- Illness from poisoning
- Wounds/injuries from knives/sharp instruments, if caused by a criminal act
- Grave bodily harm or grave illness, if caused by a criminal act of violence

▪ Children under 18

- Recurrent illness caused by nonaccidental trauma
- Serious physical injury caused by nonaccidental trauma

Report to **both** DSS & law enforcement

Making a report



- Person of any age with one of the specified illnesses or injuries: name, age, sex, race, residence or present location, character and extent of injuries
- Children under age 18 with serious physical injury or recurrent illness caused by nonaccidental trauma: Child's identity and information about illness/injury
- **Disclosure of additional information is not authorized by reporting statute.** May disclose additional info only if:
 - Client/personal representative gives permission
 - LE has warrant or court order for information
 - Other law authorizes disclosure to LE

Reports to LE about ill/injured children under age 18

Who	• Physician or health care administrator
When	• Recurrent illness or serious physical injury caused by nonaccidental trauma
What	• Child's identity and information about injury or illness
HIPAA	• Allows report
Liability	• Immunity if report made in good faith
Penalty	• None specified

Reports to LE about other injuries and illnesses (all ages)

Who	• Physician or health care administrator
When	• Specified wounds, injuries, and illnesses caused by criminal acts
What	• Name, age, sex, race, residence or present location, info about injury or illness
HIPAA	• Allows report
Liability	• Immunity if report made in good faith
Penalty	• None specified

CHILD VICTIMS OF SEX CRIMES



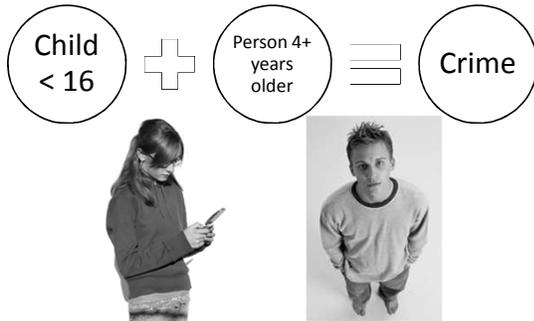
Statutory rape (vaginal intercourse)

- First-degree statutory rape (GS 14-27.24)
 - Victim under age 13
 - Perpetrator at least 12 years old and at least 4 years older than the victim
- Statutory rape of child age 15 or younger (GS 14-27.25)
 - Victim under age 16
 - Perpetrator at least 12 years old and at least 4 years older than victim (more severe penalty if perpetrator ≥ 6 years older)
 - No crime if perpetrator is married to victim
- Statutory rape of child by adult (GS 14.27.23)
 - Victim under age 13
 - Perpetrator at least 18

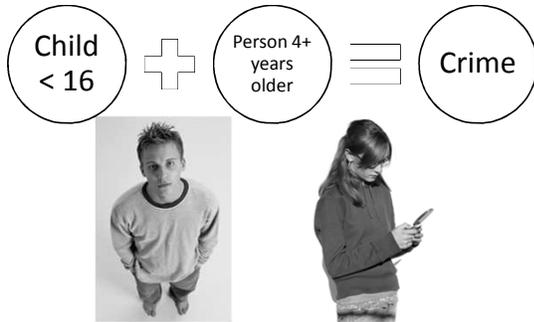
Statutory sexual offense

- First-degree statutory sexual offense (GS 14-27.29)
 - Victim under age 13
 - Perpetrator at least 12 years old and at least 4 years older than the victim
- Statutory sexual offense with child age 15 or younger (GS 14-27.30)
 - Victim under age 16
 - Perpetrator at least 12 years old and at least 4 years older than victim (more severe penalty if perpetrator ≥ 6 years older)
 - No crime if perpetrator is married to victim
- Statutory sexual offense with child by adult (GS 14.27.28)
 - Victim under age 13
 - Perpetrator at least 18

Age matters, gender doesn't



Age matters, gender doesn't



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 triggered by:
 - Nonaccidental trauma causing recurrent illness or serious physical injury to child < 18
 - Reportable injury or illness in GS 90-21.20 (any age)
 - May fit under child disappearance reporting if child is under 16, parent doesn't know whereabouts, and child is in danger (discuss with attorney)

Is there any other way to give LE information without violating confidentiality?

- May disclose information about crime to LE with victim's permission
 - If HCP initiates disclosure of information, **must have** permission of client or personal representative in writing on HIPAA authorization form
 - If LE officer initiates disclosure by inquiring about crime victim, still need victim's permission but doesn't have to be on HIPAA authorization form (still needs to be documented and authorization form may be easiest way to do that)
- May disclose to LE officer who has search warrant or court order for the information
- May disclose to LE if allowed by other law (consult HIPAA policies & attorney)



What about involving parents?

- Legally may notify parents of minor's confidential care:
 - With minor's permission
 - Without permission, if clinician determines notification is essential to minor's life or health



GS 90-21.4(b)

CASE STUDIES



Case Study 1: Mona

- Mona is 12 years old and brought in by her mother. Her mother says that she is wild, sneaks out at night, and is smoking pot. Her mother says that she wants Mona to have a pregnancy test because she doesn't want to be a grandmother. While talking to Mona she says that the only person she has ever had sex with is her mother's boyfriend.

Case Study 2: Tonya

- Tonya is 15 years old and comes in without her mom for FP services. She tells you she has been sexually active for about 3 months now and her boyfriend is 17 years old. She is on the cheerleading squad and he is on the football team. She really does not want to become pregnant and requests an implant as her birth control method. She does not want her parents to find out that she is here for birth control as they do not know she is sexually active with this boy.

Case Study 3: Starr

- Starr is 16 years old and comes in with her mom for birth control. She shares with the interview RN that her boyfriend is 24 years old and has a child with another woman whom he provides no support or involvement. Her mom and dad both know about her being sexually active with this young man and they really like him and have no problem with their relationship.

Case Study 4: Samantha

- Samantha is a 17 year old who marks on her self-history form that she lives in a safe environment with her mom, stepfather, and two younger siblings. When asked by the interview nurse who was confirming her response that all was good at home, she said she was fine. During the physical exam, the nurse practitioner discovers a large bruise on the middle of her back. When questioned as to what happened, Samantha states she can't remember hitting anything and does not know how this happened.

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