



Why Training Educators on Youth Suicide Awareness and Prevention Is Important

Responsibilities of a “First Responder”

Under

Federal Child Abuse and Neglect Laws

And

Montana Child Abuse and Neglect Laws



How is Child Abuse and Neglect Defined in Federal Law? ¹

Federal legislation lays the groundwork for State laws on child maltreatment by identifying a minimum set of acts or behaviors that define child abuse and neglect. The Federal Child Abuse Prevention and Treatment Act (CAPTA), (42 U.S.C.A 5106g), as amended and reauthorized by the CAPTA Reauthorization Act of 2010, defines child abuse and neglect as, at minimum:

“Any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or an act or failure to act which presents an imminent risk of serious harm.”

As relating to issues surrounding suicidal ideation, suicide attempts or suicides we need to explore specifically the area of “Neglect.”

Neglect is the failure of a parent, guardian, or other caregiver to provide for a child’s basic needs. Neglect may be: ²

Physical (e.g., failure to provide necessary food or shelter, or lack of appropriate supervision)

Medical (e.g., failure to provide necessary medical or mental health treatment)²

Educational (e.g., failure to educate a child or attend to special education needs)

Emotional (e.g., inattention to a child’s emotional needs, failure to provide psychological care, or permitting the child to use alcohol or other drugs)

And under law, who is responsible to report Child Abuse or Neglect (First Responder): ³

Professionals Required to Report

Approximately 48 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands designate professions whose members are mandated by law to report child maltreatment.¹ Individuals designated as mandatory reporters typically have frequent contact with children. Such individuals may include:

- Social workers
- Teachers, principals, and other school personnel
- Physicians, nurses, and other health-care workers
- Counselors, therapists, and other mental health professionals
- Child care providers
- Medical examiners or coroners
- Law enforcement officers

What about my state -Montana?

Child Abuse and Neglect

Definitions of Child Abuse and Neglect

To better understand this issue and to view it across States, see the *Definitions of Child Abuse and Neglect: Summary of State Laws* ([PDF](#) - 442 KB) publication.

Physical Abuse

Citation: Ann. Code § 41-3-102

Physical abuse means an intentional act or omission or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

Child abuse or neglect means:

- Actual physical or psychological harm to a child
- Substantial risk of physical or psychological harm to a child
- Abandonment

The term includes:

- Actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare
- Exposing a child to the criminal distribution of dangerous drugs, the criminal production or manufacture of dangerous drugs, or the operation of an unlawful clandestine laboratory

Physical or psychological harm to a child means the harm that occurs whenever the parent or other person responsible for the child's welfare inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect.

Neglect

Citation: Ann. Code § 41-3-102

Physical neglect means:

- Failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions
- Failure to provide cleanliness and general supervision
- Exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child

Physical or psychological harm to a child means the harm that occurs whenever the parent or other person responsible for the child's welfare:

Causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so

Exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk

Withholding of medically indicated treatment means the failure to respond to an infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

Sexual Abuse

Citation: Ann. Code § 41-3-102

Sexual abuse means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, ritual abuse, or incest.

Sexual exploitation means allowing, permitting, or encouraging a child to engage in a prostitution offense or allowing, permitting, or encouraging sexual abuse of children.

Physical or psychological harm to a child means the harm that occurs whenever the parent or other person responsible for the child's welfare commits or allows sexual abuse or exploitation of the child.

Emotional Abuse

Citation: Ann. Code § 41-3-102

Psychological abuse or neglect means severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including acts of violence against another person residing in the child's home.

Physical or psychological harm to a child means the harm that occurs whenever the parent or other person responsible for the child's welfare induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child's welfare.

Abandonment

Citation: Ann. Code § 41-3-102

Abandon, abandoned, and abandonment mean:

Leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future

Willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child

That the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed

The voluntary surrender, as defined in § 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider

Physical or psychological harm to a child means the harm that occurs whenever the parent or other person responsible for the child's welfare abandons the child.

Standards for Reporting

Citation: Ann. Code § 41-3-102

A report must be made when a parent's willful or intentional acts or omissions result in harm or threatened harm to the child.

Persons Responsible for the Child

Citation: Ann. Code § 41-3-102

A person responsible for a child's welfare means:

The child's parent, guardian, foster parent, or an adult who resides in the same home in which the child resides

A person providing care in a daycare facility

An employee of a public or private residential institution, facility, home, or agency

Any other person responsible for the child's welfare in a residential setting

Exceptions

Citation: Ann. Code § 41-3-102

The term *abandoned* does not include the voluntary surrender of the child to the department solely because of parental inability to access publicly funded services.

The term *child abuse* does not include self-defense, defense of others, or action taken to prevent the child from self-harm.

This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. This chapter may not be construed to limit the administrative or judicial authority of the State to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

The term *withholding medically indicated treatment* does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

The infant is chronically and irreversibly comatose.

The provision of treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant.

The provision of treatment would be virtually futile in terms of the survival of the infant, and the treatment itself under the circumstances would be inhumane.

Mandatory Reporters of Child Abuse and Neglect

To better understand this issue and to view it across States, see the *Mandatory Reporters of Child Abuse and Neglect: Summary of State Laws* ([PDF](#) - 633 KB) publication.

Professionals Required to Report

Citation: Ann. Code § 41-3-201

Professionals required to report include:

Physicians, residents, interns, members of hospital staffs, nurses, osteopaths, chiropractors, podiatrists, medical examiners, coroners, dentists, optometrists, or any other health professionals

School teachers, other school officials, employees who work during regular school hours, operators or employees of any registered or licensed daycare or substitute care facility, or any other operators or employees of child care facilities

Mental health professionals or social workers

Religious healers

Foster care, residential, or institutional workers

Members of clergy, as defined in § 15-6-2-1(2)(a): The term "clergy" means:

An ordained minister, priest, or rabbi

A commissioned or licensed minister of a church or church denomination that ordains ministers if the person has the authority to perform substantially all the religious duties of the church or denomination

A member of a religious order who has taken a vow of poverty

A Christian Science practitioner

Guardians *ad litem* or court-appointed advocates authorized to investigate a report
Peace officers or other law enforcement officials

Reporting by Other Persons

Citation: Ann. Code § 41-3-201

Any other person who knows or has reasonable cause to suspect that a child is abused or neglected may report.

Standards for Making a Report

Citation: Ann. Code § 41-3-201

A report is required when:

A reporter knows or has reasonable cause to suspect, as a result of information received in his or her professional or official capacity, that a child is abused or neglected.

A health-care professional involved in the delivery or care of an infant knows that the infant is affected by a dangerous drug.

Privileged Communications

Citation: Ann. Code § 41-3-201

A person listed as a mandated reporter may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.
A member of the clergy or priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

Inclusion of Reporter's Name in Report

Not addressed in statutes reviewed.

Disclosure of Reporter Identity

Citation: Ann. Code § 41-3-205

The identity of the reporter shall not be disclosed in any release of information to the subject of the report.

Penalties for Failure to Report and False Reporting of Child Abuse and Neglect

To better understand this issue and to view it across States, see the *Penalties for Failure to Report and False Reporting of Child Abuse and Neglect: Summary of State Laws* ([PDF](#) - 166 KB) publication.

Failure to Report

Ann. Code § 41-3-207

Any mandatory reporter who fails to report known or suspected child abuse or neglect or who prevents another person from reasonably doing so is civilly liable for the damages proximately caused by such failure or prevention.

Any mandatory reporter who purposely or knowingly fails to report when required or purposely or knowingly prevents another person from doing so is guilty of a misdemeanor

False Reporting

Ann. Code § 41-3-203(1)

Anyone reporting any incident of child abuse or neglect as required by law is immune from any liability, civil or criminal, that might otherwise be incurred or imposed unless the person was grossly negligent, acted in bad faith or with malicious purpose, or provided information knowing the information to be false.

What does this have to do with providing training for educators in youth suicide awareness and prevention?

Teachers, under definition of “First Responders” and from the 48 states that name professionals required to report Child Abuse and Neglect, are required to report Child Abuse and Neglect. States usually do an adequate job training educators on how to recognize / identify children who might be victims of physical abuse. However, when it comes to training on identifying and recognizing children who are neglected...especially under the “emotional neglect” definition states many times fall far short in providing this training even though it named with the same intensity that physical abuse is discussed. The “failure to act” when a young person is demonstrating “warning signs” (that four out of five do) that they may be struggling depression and with thoughts of suicide is a failure to “Report.” Ignorance to how-to recognize “warning signs” of suicidal ideation is no longer a valid defense with now over 18 states requiring such training and with suicide named as the 2nd leading cause of death for our youth ages 10-24.

The Jason Foundation, Inc. is the nation’s premiere provider of In-Service / Professional Development training for educators nationwide. From 2015 through 2016, The Jason Foundation’s National Network of Affiliate Offices providing training for almost 300,000 educators in the U.S.. We are unique in that not only do we provide more trainings for educators in youth suicide awareness and prevention that anyone else in the nation, we never charge for our services.