



## **Why Training Educators on Youth Suicide Awareness and Prevention Is Important**

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**Responsibilities of a “First Responder”**

**Under**

**Federal Child Abuse and Neglect Laws**

**And**

**South Dakota Child Abuse and Neglect Laws**



# **How is Child Abuse and Neglect Defined in Federal Law? <sup>1</sup>**

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:<sup>2</sup>

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)

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):<sup>3</sup>

## **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.<sup>1</sup> 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 -South Dakota?

## **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. Laws § 26-8A-2**

*Abused or neglected child* means a child:

Whose parent, guardian, or custodian has subjected the child to mistreatment or abuse

Who was subject to prenatal exposure to abusive use of alcohol, any controlled drug, or a substance not lawfully prescribed by a practitioner

#### **Neglect**

##### **Citation: Ann. Laws § 26-8A-2**

*Abused or neglected child* means a child:

Who lacks proper parental care through the actions or omissions of the child's parent, guardian, or custodian

Whose environment is injurious to the child's welfare

Whose parent, guardian, or custodian fails or refuses to provide proper or necessary subsistence, supervision, education, medical care, or any other care necessary for the child's health, guidance, or well-being

Who is homeless, without proper care, or not domiciled with the child's parent, guardian, or custodian through no fault of the child's parent, guardian, or custodian

Whose parent, guardian, or custodian knowingly exposes the child to an environment that is being used for the manufacture, use, or distribution of methamphetamine or any other unlawfully manufactured controlled drug or substance

#### **Sexual Abuse**

##### **Citation: Ann. Laws § 26-8A-2**

*Abused or neglected child* means a child who is subject to sexual abuse, sexual molestation, or sexual exploitation by the child's parent, guardian, custodian, or any other person responsible for the child's care.

#### **Emotional Abuse**

##### **Citation: Ann. Laws § 26-8A-2**

***Abused or neglected child*** means a child who has sustained emotional harm or mental injury as indicated by an injury to the child's intellectual or psychological capacity, evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture.

### **Abandonment**

**Citation:** Ann. Laws § 26-8A-2

*Abused or neglected child* means a child whose parent, guardian, or custodian has abandoned the child.

### **Standards for Reporting**

**Citation:** Ann. Laws § 26-8A-2

A report is required when a child is threatened with substantial harm.

### **Persons Responsible for the Child**

**Citation:** Ann. Laws § 26-8A-2

Responsible persons include a child's parent, guardian, or custodian.

### **Exceptions**

No exceptions are specified in statute.

## **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:** Codified Laws § 26-8A-3

Mandatory reporters include:

Physicians, dentists, osteopaths, chiropractors, optometrists, nurses, coroners  
Teachers, school counselors or officials, child welfare providers  
Mental health professionals or counselors, psychologists, social workers, chemical dependency counselors, employees or volunteers of domestic abuse shelters, or religious healing practitioners  
Parole or court services officers or law enforcement officers  
Any safety-sensitive position (as defined in § 23-3-64), including any law enforcement officer authorized to carry firearms and any custody staff employed by any agency responsible for the rehabilitation or treatment of any adjudicated adult or juvenile

### **Reporting by Other Persons**

**Citation:** Codified Laws § 26-8A-3

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

**Standards for Making a Report**

**Citation: Codified Laws § 26-8A-3**

A report is required when a reporter has reasonable cause to suspect that a child has been abused or neglected.

**Privileged Communications**

**Citation: Codified Laws § 26-8A-15**

The following privileges may not be claimed as a reason for not reporting:

- Physician-patient
- Husband-wife
- School counselor-student
- Social worker-client

**Inclusion of Reporter's Name in Report**

Not addressed in statutes reviewed.

**Disclosure of Reporter Identity**

**Citation: Codified Laws § 26-8A-11.1**

The name of the reporter is not disclosed unless:

The report is determined to be unsubstantiated.

Within 30 days, the subject of the report requests disclosure of the reporter's identity.

A hearing is held to determine whether the report was made with malice and without reasonable foundation and that release of the name will not endanger the life or safety of the reporter.

**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. Stat. §§ 26-8A-3; 26-8A-4; 26-8A-6; 26-8A-7**

Any mandatory reporter who knowingly and intentionally fails to make the required report is guilty of a Class 1 misdemeanor. This provision includes:

- Reports that must be made to the coroner when the reporter suspects that a child has died as a result of abuse or neglect
- Reports required of hospital staff
- Reports that are required of staff of public or private schools

**False Reporting**  
**Ann. Stat. § 22-11-9**

*[Effective July 1, 2006]*

A person commits false reporting to authorities when he or she:

- Makes a report or intentionally causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern, knowing that it did not occur
- Makes a report or intentionally causes the transmission of a report to law enforcement authorities that furnishes information relating to an offense or other incident within their official concern, knowing that such information is false

False reporting to authorities is a Class 1 misdemeanor.

**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 2<sup>nd</sup> 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 than anyone else in the nation, we never charge for our services.