

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

POLICY GUIDE 2020.08

RULES AND PROCEDURES 300, REPORTS OF CHILD ABUSE AND NEGLECT

DATE: April 13, 2020
TO: All DCFS and POS Staff
FROM: Marc D. Smith, Acting Director
EFFECTIVE: Immediately

I. PURPOSE

The purpose of this policy guide is to inform staff and mandated reporters of changes pursuant to **Public Act 101-0564** and **Public Act 101-0237** which amend the Abused and Neglected Child Reporting Act and require amendments to **Rules 300, Reports of Child Abuse and Neglect**. These statutory changes are effective January 1, 2020.

To the extent that any of the required activities in Section IV and V differ from Rules 300.20 and 300.30 or Procedures 300.15 and 300.30, this Policy Guide controls.

Amendments to the Rules and Procedures 300 are being drafted and will be released in the near future.

II. PRIMARY USERS

DCFS Staff, POS Staff and Mandated Reporters

III. BACKGROUND AND SUMMARY

Public Act 101-0564 redefines who is statutorily recognized as Mandated Reporters in the State of Illinois, and what is to be considered “a child known to them in their professional or official capacities”. It prescribes reporting requirements when there are two or more persons working together who share concerns about whether a child is abused or neglected and who else can make a report with reasonable cause. It also adds mandated reporter training frequency and requirements, including sources of training for mandated reporters and licensed practitioners and reporting of completed training.

Public Act 101-0237 establishes that when a Mandated Reporter makes a report to the State Central Register and there is a prior indicated report of abuse or neglect or there is a prior open service case involving any member of the household that the Department must minimally accept a report as a child welfare services referral. If the family refuses to cooperate or refuses access to the home or children, then a child protection service investigation shall be initiated if the facts meet the criteria to accept a report.



IV. NEW RULE/PROCEDURE SECTION

(Statutory changes that are direct quotes from the Act are *italicized* and underlined. All other changes are underlined.)

Pursuant to Public Act 101-0564 the following revisions will be included in Rules 300:

Rules 300.20 and Procedures 300.15, Definitions

(The following two definitions have been added into Rules 300.20 and Procedures 300.15)

"Child welfare services referral" means an assessment of the family for service needs and linkage to available local community resources for the purpose of preventing or remedying or assisting in the solution of problems which may result in the neglect, abuse, exploitation, or delinquency of children, and as further defined in Department rules and procedures. [325 ILCS 5/7.01.]

"Prior open service case" means a case in which the Department has provided services to the family either directly or through a purchase of service agency. [325 ILCS 5/7.01.]

Rule Section 300.30 Reporting Child Abuse or Neglect to the Department

(The following is the proposed Rule Section 300.30 in its entirety. Staff should be using this Guide for Rule Section 300.30.)

a) Reports of suspected child abuse or neglect may be immediately made to the State Central Register via its toll-free number [1-800-25ABUSE] at any time, day or night, or on any day of the week. Reports may also be made to the nearest Department office. The Department encourages use of the toll-free hotline number.

b) Persons Mandated to Report Child Abuse or Neglect

The following persons are required to immediately report to the Department when they have reasonable cause to believe that a child known to them in their professional or official capacities may be an abused child or a neglected child:

1) *Medical personnel, including any: physician licensed to practice medicine in any of its branches (medical doctor or doctor of osteopathy); resident; intern; medical administrator or personnel engaged in the examination, care, and treatment of persons; psychiatrist; surgeon; dentist; dental hygienist; chiropractic physician; podiatric physician; physician assistant; emergency medical technician; acupuncturist; registered nurse; licensed practical nurse; advanced practice registered nurse; genetic counselor; respiratory care practitioner; home health aide; or certified nursing assistant.*

2) *Social services and mental health personnel, including any: licensed professional counselor; licensed clinical professional counselor; licensed social worker; licensed clinical social worker; licensed psychologist or assistant working under the direct supervision of a psychologist; associate licensed marriage and family therapist; licensed marriage and family therapist; field personnel of the Departments of Healthcare and Family*

Services, Public Health, Human Services, Human Rights, or Children and Family Services; supervisor or administrator of the General Assistance program established under Article VI of the Illinois Public Aid Code; social services administrator; or substance abuse treatment personnel.

- 3) Crisis intervention personnel, including any: crisis line or hotline personnel; or domestic violence program personnel.
- 4) Education personnel, including any: school personnel (including administrators and certified and non-certified school employees); personnel of institutions of higher education; educational advocate assigned to a child in accordance with the School Code; member of a school board or the Chicago Board of Education or the governing body of a private school (but only to the extent required under Section 4 (d) of the Abused and Neglect Reporting Act [325 ILCS 5/4(d)]; or truant officer.
- 5) Recreation or athletic program or facility personnel.
- 6) Child care personnel, including any: early intervention provider as defined in the Early Intervention Services System Act; director or staff assistant of a nursery school or a child day care center; or foster parent, homemaker, or child care worker.
- 7) Law enforcement personnel, including any: law enforcement officer; field personnel of the Department of Juvenile Justice; field personnel of the Department of Corrections; probation officer; or animal control officer or field investigator of the Department of Agriculture's Bureau of Animal Health and Welfare.
- 8) Any funeral home director; funeral home director and embalmer; funeral home employee; coroner; or medical examiner.
- 9) Any member of the clergy.
- 10) Any physician, physician assistant, registered nurse, licensed practical nurse, medical technician, certified nursing assistant, licensed social worker, licensed clinical social worker, or licensed professional counselor of any office, clinic, or any other physical location that provides abortions, abortion referrals, or contraceptives. [325 ILCS 5/4]

- c) When 2 or more persons who work within the same workplace and are required to report under this Act share a reasonable cause to believe that a child may be an abused or neglected child, one of those reporters may be designated to make a single report. The report shall include the names and contact information for the other mandated reporters sharing the reasonable cause to believe that a child may be an abused or neglected child. The designated reporter must provide written confirmation of the report to those mandated reporters within 48 hours. If confirmation is not provided, those mandated reporters are individually responsible for immediately ensuring a report is made. Nothing in this Section precludes or may be used to preclude any person from reporting child abuse or child neglect. [325 ILCS 5/4]

d) As used in this Section, "a child known to them in their professional or official capacities" means:

- 1) the mandated reporter comes into contact with the child in the course of the reporter's employment or practice of a profession, or through a regularly scheduled program, activity, or service;
- 2) the mandated reporter is affiliated with an agency, institution, organization, school, school district, regularly established church or religious organization, or other entity that is directly responsible for the care, supervision, guidance, or training of the child; or
- 3) a person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse or child neglect, and the disclosure happens while the mandated reporter is engaged in his or her employment or practice of a profession, or in a regularly scheduled program, activity, or service.

Nothing in this Section requires a child to come before the mandated reporter in order for the reporter to make a report of suspected child abuse or child neglect.
[325 ILCS 5/4]

e) **Mandated Reporter Training**

- 1) Persons required to report child abuse or child neglect as provided under this Section must complete an initial mandated reporter training within 3 months of their date of engagement in a professional or official capacity as a mandated reporter, or within the time frame of any other applicable State law that governs training requirements for a specific profession, and at least every 3 years thereafter. The initial requirement only applies to the first time they engage in their professional or official capacity. In lieu of training every 3 years, medical personnel, as listed in paragraph (1) of Section 4(a) of the Abused and Neglected Child Reporting Act, must meet the requirements described in subsection (k) of the Act. [325 ILCS 5/4]
- 2) The trainings shall be in-person or web-based, and shall include, at a minimum, information on the following topics:
 - A) indicators for recognizing child abuse and child neglect, as defined under this Act;
 - B) the process for reporting suspected child abuse and child neglect in Illinois as required by this Act and the required documentation;
 - C) responding to a child in a trauma-informed manner; and

D) understanding the response of child protective services and the role of the reporter after a call has been made. Child-serving organizations are encouraged to provide in-person annual trainings.

- 3) The mandated reporter training shall be provided through the Department, through an entity authorized to provide continuing education for professionals licensed through the Department of Financial and Professional Regulation, the State Board of Education, the Illinois Law Enforcement Training Standards Board, or the Department of State Police, or through an organization approved by the Department to provide mandated reporter training. The Department must make available a free web-based training for reporters.

A free online mandated reporter training is available on the DCFS Website for all mandated reporters and the general public.

- 4) Each mandated reporter shall report to his or her employer and, when applicable, to his or her licensing or certification board that he or she received the mandated reporter training. The mandated reporter shall maintain records of completion.
- 5) Beginning January 1, 2021, if a mandated reporter receives licensure from the Department of Financial and Professional Regulation or the State Board of Education, and his or her profession has continuing education requirements, the training mandated under this Section shall count toward meeting the licensee's required continuing education hours.
- 6) Medical personnel, as listed in paragraph (1) of Section 4(a) of the Abused and Neglected Child Reporting Act who work with children in their professional or official capacity, must complete mandated reporter training at least every 6 years. Such medical personnel, if licensed, must attest at each time of licensure renewal on their renewal form that they understand they are a mandated reporter of child abuse and neglect, that they are aware of the process for making a report, that they know how to respond to a child in a trauma-informed manner, and that they are aware of the role of child protective services and the role of a reporter after a call has been made.
- 7) In lieu of repeated training, medical personnel, as listed in paragraph (1) of Section 4(a), of the Abused and Neglected Child Reporting Act, who do not work with children in their professional or official capacity, may instead attest each time at licensure renewal on their renewal form that they understand they are a mandated reporter of child abuse and neglect, that they are aware of the process for making a report, that they know how to respond to a child in a trauma-informed manner, and that they are aware of the role of child protective services and the role of a reporter after a call has been made. Nothing in this paragraph precludes medical personnel from completing mandated reporter training and receiving continuing education credits for that training. [325 ILCS 5/4]

f) Acknowledgment of Reporting Responsibility

Individuals who became mandated reporters on or after July 1, 1986, by virtue of their employment shall sign statements acknowledging that they are mandated to report suspected child abuse and neglect in accordance with Section 4 of the Act. The statement shall be on a form prescribed by the Department but provided by the employer. (See Appendix A.) The statement shall be signed before beginning employment and shall be retained by the employer as a permanent part of the personnel record.

Note: The Department shall provide copies of this Act, upon request, to all employers employing persons who shall be required under the provisions of this Section to report under this Act. [325 ILCS 5/4]

g) Interference with Reporting Prohibited

1) *Whenever such person is required to report under the Act in his or her capacity as member of the staff of a medical or other public or private institution, school, facility or agency, or as a member of the clergy, he shall make report immediately to the Department in accordance with provisions of the Act and may also notify the person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent that such a report has been made. Under no circumstances shall any person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque or other religious institution, or designated agent to whom such notification has been made exercise any control, restraint, modification or other change in the report or the forwarding of such report to the Department.* [325 ILCS 5/4]

2) *Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the Criminal Code of 2012. A violation of this provision is a Class 4 felony.*

Any person who knowingly and willfully violates any provision of [Section 4 of the Act] other than a second or subsequent violation of transmitting a false report as described in the preceding paragraph, is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation. [325 ILCS 5/4]

3) *No employer shall discharge, demote or suspend, or threaten to discharge, demote or suspend, or in any manner discriminate against any employee who makes any good faith oral or written report of suspected child abuse or neglect, or who is or will be a witness or testify in any investigation or proceeding concerning a report of suspected child abuse or neglect.* [325 ILCS 5/9.1]

h) Consequences of Failure to Report

- 1) *The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by the Act or constitute grounds for failure to share information or documents with the Department during the course of a child abuse or neglect investigation. If requested by the professional, the Department shall confirm in writing that the information or documents disclosed by the professional were gathered in the course of a child abuse or neglect investigation. [325 ILCS 5/4]*

Mandated reporters who willfully fail to report suspected child abuse or neglect are subject to license suspension or revocation in accordance with, but not limited to, the following statutes:

- A) Nurse Practice Act of 1987 [225 ILCS 65];
 - B) Medical Practice Act of 1987 [225 ILCS 60];
 - C) Podiatric Medical Practice Act of 1987 [225 ILCS 100];
 - D) Clinical Psychologist Licensing Act [225 ILCS 15];
 - E) Clinical Social Worker and Social Work Practice Act [225 ILCS 20];
 - F) The School Code [105 ILCS 5];
 - G) The Illinois Dental Practice Act [225 ILCS 25];
 - H) Physician Assistant Practice Act of 1987 [225 ILCS 95];
 - I) Illinois Optometric Practice Act of 1987 [225 ILCS 80];
 - J) Illinois Physical Therapy Act [225 ILCS 90]; and
 - K) Illinois Athletic Trainers Act [225 ILCS 5].
- 2) *Any physician who willfully fails to report child abuse or neglect shall be referred to the Illinois State Medical Disciplinary Board for action and similar referrals are required for dentists and dental hygienists. Any other person required to report suspected child abuse or neglect who willfully fails to report such abuse or neglect shall be guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation. [325 ILCS 5/4.02]*
- 3) Members of clergy of any religious denomination accredited by the religious body to which he or she belongs shall not be compelled to disclose a confession or admission made to him or her in his or her professional character or as a spiritual advisor.

i) Written Confirmation of Reports

Mandated reporters shall confirm their telephone report in writing on a form prescribed by the Department within 48 hours after the oral report. The Department shall provide forms to mandated reporters--one for the exclusive use of medical professionals (**CANTS 4 Written Confirmation of Suspected Child Abuse/Neglect Report: Medical Professionals**) and another for use by all other mandated reporters (**CANTS 5 Written Confirmation of Suspected Child Abuse/Neglect Report: Mandated Reporters**). These confirmation reports shall be admissible as evidence in any administrative or judicial proceeding related to child abuse or neglect. Local investigative staff shall transmit confirmation reports to the State Central Register within 24 hours after receipt.

j) Other Persons May Report

In addition to the persons required to report suspected cases of child abuse or child neglect under this Section, any other person may make a report if such person has reasonable cause to believe a child may be an abused child or a neglected child.
[325 ILCS 5/4]

k) Consequences of False Reporting

Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the Criminal Code of 2012. A violation of this provision is a Class 4 felony.

Any person who knowingly and willfully violates any provision of [Section 4 of the Act] other than a second or subsequent violation of submitting a false report as described in the preceding paragraph is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation. [325 ILCS 5/4]
The Department shall refer cases of false reporting to the local State's Attorney when the reporter is known.

l) Cooperation in Court or Administrative Hearings

Any person who makes a report or who investigates a report under the Act shall testify fully in any judicial proceeding or administrative hearing resulting from such report, as to any evidence of abuse or neglect, or the cause thereof. Any person who is required to report a suspected case of abuse or neglect shall testify fully in any administrative hearing resulting from such report, as to any evidence of abuse or neglect or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged perpetrator of abuse or neglect, or the child subject of the report and any person who is required to report a suspected case of abuse or neglect or the person making or investigating the report. [325 ILCS 5/10]

m) Referrals to Public Health

All mandated reporters listed in subsection (b)(1) through (10) of this rule may refer to the Department of Public Health any pregnant person in Illinois who is addicted as defined in the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301].

n) Depending upon Spiritual Means Through Prayer Alone for the Treatment or Cure of Disease or Remedial Care

A child whose parent, guardian or custodian in good faith selects and depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care may be considered neglected or abused, but not for the sole reason that his parent, guardian, or custodian accepts and practices such beliefs. [325 ILCS 5/4] Where the circumstances indicate harm or substantial risk of harm to the child's health or welfare and medical care necessary to treat or prevent that harm or risk of harm is not being provided because a parent or other person responsible for the child's welfare depends upon such spiritual means, the child shall be subject to the requirements of the Act for the reporting of, investigation of, and provision of protective services with respect to the child and his or her health needs.

Pursuant to Public Act 101-0237 the following revisions will be included in Procedures 300 Section 300.30 (i)(2):

Child Welfare Services (CWS) Referrals

When a Call Floor Worker receives information from a mandated reporter and the information reported to the Hotline does not meet the requirements under ANCRA for an investigation, and there is a prior indicated report of abuse or neglect, or there is a prior open service case involving any member of the household, a CWS referral will be completed.

Response to Requests for Child Welfare Services

If the family refuses to cooperate or refuses access to the home or children, then a child protective services investigation shall be initiated, if the facts otherwise meet the criteria to accept a report.

V. NEW, REVISED AND/OR OBSOLETE FORMS

There are no known form changes at this time.

VI. QUESTIONS

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or via Outlook at DCFS.Policy. Non-Outlook users may e-mail questions to DCFS.Policy@illinois.gov. During the Department's response to COVID-19 the listed phone number is being checked remotely, but we do ask that if you need immediate assistance Monday – Friday (8:30 – 5:00) please utilize the email address provided.

VII. FILING INSTRUCTIONS

File this Policy Guide after Rules 300.20; Rules 300.30; and Procedures 300.15 and Procedures 300.30.