

**Ryan White Part B Program
Policy
Mandatory Reporting
Abuse and Neglect-Minor Child and Vulnerable Adult
06/2013**

The Nebraska Ryan White Program has waived all requirements for subgrant entities regarding imposition of charges for services, pursuant to Section 2617(c)(4)(A) of the Ryan White Modernization Act of 2006.

The HRSA/HAB Fiscal and Program Monitoring Standards for Ryan White Part B Grantees (Monitoring Standards) will guide the oversight of Supportive Services by the NDHHS. The Monitoring Standards are attached to this document by reference. Annual fiscal and programmatic monitoring is required by regulation, both internally and by the NDHHS.
<https://careacttarget.org/category/topics/program-monitoring>

Purpose:

The purpose of this policy is to identify the mandatory reporting requirements regarding Abuse and Neglect of both Minor Children and Vulnerable Adults. All departmental and contracted staff will adhere to such and/or risk both disciplinary action and/or legal action. Reporting shall be **immediate** to either local law enforcement or the Nebraska Department of Children and Family Services.

This policy is to protect vulnerable minor children and adults and also contract and program staff from legal ramifications.

**Nebraska Health and Human Services
Abuse/Neglect Hotline
1-800-652-1999**

**Email: dhhs.childrenandfamilyservices@nebraska.gov
http://dhhs.ne.gov/children_family_services/Pages/cha_chainindex.aspx**

Child Abuse and Neglect per Nebraska Revised Statute 28-711

“When any physician, any medical institution, any nurse, any school employee, any social worker, the Inspector General appointed under section [43-4317](#), or any other person has reasonable cause to believe that a **child** has been subjected to child abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in child abuse or neglect, he or she shall report such incident or cause a report of child abuse or neglect to be made to the proper law enforcement agency or to the department” and “Such report may be made orally by telephone with the caller giving his or her name and address, shall be followed by a written report, and to the extent available shall contain the address and age of the abused or neglected child, the address of the person or persons having custody of the abused or neglected child, the nature and extent of the child abuse or neglect or the conditions and circumstances

which would reasonably result in such child abuse or neglect, any evidence of previous child abuse or neglect including the nature and extent, and any other information which in the opinion of the person may be helpful in establishing the cause of such child abuse or neglect and the identity of the perpetrator or perpetrators. Law enforcement agencies receiving any reports of child abuse or neglect under this subsection shall notify the department pursuant to section [28-718](#) on the next working day by telephone or mail.”

<http://nebraskalegislature.gov/laws/statutes.php?statute=28-711>

Vulnerable Adult defined per Nebraska Revised Statute 28-371

Vulnerable adult shall mean any person eighteen years of age or older who has a substantial mental or functional impairment or for whom a guardian has been appointed under the Nebraska Probate Code.

<http://nebraskalegislature.gov/laws/statutes.php?statute=28-371>

Neglect defined per Nebraska Revised Statute 28-361.01

Neglect means any knowing or intentional act or omission on the part of a caregiver to provide essential services or the failure of a vulnerable adult, due to physical or mental impairments, to perform self-care or obtain essential services to such an extent that there is actual physical injury to a vulnerable adult or imminent danger of the vulnerable adult suffering physical injury or death.

<http://nebraskalegislature.gov/laws/statutes.php?statute=28-361.01>

- The Nebraska State Laws by Chapter may be viewed complete at:
<http://nebraskalegislature.gov/laws/browse-statutes.php>

Failure to Make Report per Nebraska Revised Statute 28-717

Any person who willfully fails to make any report of child abuse or neglect required by section [28-711](#) shall be guilty of a Class III misdemeanor.

<http://nebraskalegislature.gov/laws/statutes.php?statute=28-717>

Child Abuse defined per Nebraska Revised Statute 28-707

- (1) A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be:
 - (a) Placed in a situation that endangers his or her life or physical or mental health;

- (b) Cruelly confined or cruelly punished;
 - (c) Deprived of necessary food, clothing, shelter, or care;
 - (d) Placed in a situation to be sexually exploited by allowing, encouraging, or forcing such minor child to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions; or
 - (e) Placed in a situation to be sexually abused as defined in section [28-319](#), [28-319.01](#), or [28-320.01](#).
- (2) The statutory privilege between patient and physician, between client and professional counselor, and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.
 - (3) Child abuse is a Class I misdemeanor if the offense is committed negligently and does not result in serious bodily injury as defined in section [28-109](#) or death.
 - (4) Child abuse is a Class IIIA felony if the offense is committed knowingly and intentionally and does not result in serious bodily injury as defined in section [28-109](#) or death.
 - (5) Child abuse is a Class IIIA felony if the offense is committed negligently and results in serious bodily injury as defined in section [28-109](#).
 - (6) Child abuse is a Class III felony if the offense is committed negligently and results in the death of such child.
 - (7) Child abuse is a Class II felony if the offense is committed knowingly and intentionally and results in serious bodily injury as defined in such section.
 - (8) Child abuse is a Class IB felony if the offense is committed knowingly and intentionally and results in the death of such child.
 - (9) For purposes of this section, negligently refers to criminal negligence and means that a person knew or should have known of the danger involved and acted recklessly, as defined in section [28-109](#), with respect to the safety or health of the minor child.

<http://nebraskalegislature.gov/laws/statutes.php?statute=28-707>

Child Protection Act per Nebraska Revised Statute 28-710

- (1) Sections [28-710](#) to [28-727](#) shall be known and may be cited as the Child Protection Act.
- (2) For purposes of the Child Protection Act:
 - (a) Child abuse or neglect means knowingly, intentionally, or negligently causing or permitting a **minor child** to be:
 - (i) Placed in a situation that endangers his or her life or physical or mental health;

- (ii) Cruelly confined or cruelly punished;
- (iii) Deprived of necessary food, clothing, shelter, or care;
- (iv) Left unattended in a motor vehicle if such minor child is six years of age or younger;
- (v) Sexually abused; or
- (vi) Sexually exploited by allowing, encouraging, or forcing such person to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions;

(b) Department means the Department of Health and Human Services;

(c) Law enforcement agency means the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol;

(d) Out-of-home child abuse or neglect means child abuse or neglect occurring in day care homes, foster homes, day care centers, group homes, and other child care facilities or institutions; and

(e) Subject of the report of child abuse or neglect means the person or persons identified in the report as responsible for the child abuse or neglect.

<http://nebraskalegislature.gov/laws/statutes.php?statute=28-710>

Abuse, Neglect, or Exploitation per Nebraska Revised Statute 28-372

“When any physician, psychologist, physician assistant, nurse, nursing assistant, other medical, developmental disability, or mental health professional, law enforcement personnel, caregiver or employee of a caregiver, operator or employee of a sheltered workshop, owner, operator, or employee of any facility licensed by the department, or human services professional or paraprofessional not including a member of the clergy has reasonable cause to believe that a **vulnerable adult** has been subjected to abuse, neglect, or exploitation or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, neglect, or exploitation, he or she shall report the incident or cause a report to be made to the appropriate law enforcement agency or to the department. Any other person may report abuse, neglect, or exploitation if such person has reasonable cause to believe that a vulnerable adult has been subjected to abuse, neglect, or exploitation or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, neglect, or exploitation.”

<http://nebraskalegislature.gov/laws/statutes.php?statute=28-372>