

**Par. 1. Material Transmitted and Purpose** --Transmitted with this Manual Letter are changes to Service Chapter 640-01, Child Protection Services. New language is in red.

**Par. 2.** Effective Date – December 1, 2021.

## **Abandoned Infants (Baby Safe Haven) 640-01-10-80-10**

North Dakota Century Code Chapter 50-25.1-15 allows a parent or a parent's agent (another person acting with the parent's consent) who feels they are unable to take care of their infant to surrender the infant without facing prosecution for abandonment. To be protected by the Safe Haven Law, the child must be:

- *unharm*ed,
- *under one year of age*
- *surrendered to an on-duty staff person*
- *at a Baby Safe Haven approved location*

Approved Locations for abandoning an infant under the abandoned infant statute are:

- Hospital/Emergency Room
- Local Public Health Units (city/county public health)
- Human Service Zones (county social services)
- Regional Human Service Centers (ND Department of Human Services)
- Long term care nursing facilities (nursing homes)
- Children's Advocacy Centers (CACs)
- Emergency medical services operations (911 or ambulance)
- Criminal Justice Agencies (state highway patrol, a county sheriff's department, bureau of criminal investigation, a city police department, a university, or college police department.)

## **When an Infant is Brought to an Approved Location 640-01-10-80-10-01**

Upon receiving an abandoned infant, an approved location may summon an ambulance transport to the nearest medical facility on a non-emergency

basis, or if an infant is in distress, an emergency transport by ambulance, followed by a report to the Human Service Zone. When an infant is abandoned at an approved location, the location receiving the infant must report to the Human Service Zone office. These reports will be made as a report of suspected child abuse or neglect, since it is unknown at the time of an abandonment whether the situation meets the criteria under state law and administrative rule for infant abandonment under the Abandoned Infant (Baby Safe Haven) law.

A report of an abandoned infant must be assigned to a CPS Worker. Reports concerning an abandoned infant are considered an emergency. A CPS worker must be sent to the approved location where the infant was abandoned or, if the infant has been sent for medical examination, to the facility where the infant has been sent.

The CPS Worker should obtain an emergency custody order from the Juvenile Court to take legal and physical custody of the infant.

When an infant appears healthy, the CPS worker should arrange for a medical examination as soon as possible if the approved location has not already done so. When an intake of a reported abandoned infant indicates that the infant appears to be in distress, the CPS Worker should direct the approved location to call for an ambulance or call an ambulance to respond to the location.

Following a medical examination, the CPS Worker should request copies of the child's medical examination records to determine and document whether the child was harmed.

- If the medical examination reveals that the child has been harmed, law enforcement should be contacted immediately, and a criminal investigation requested.
- If the medical examination reveals that the child has NOT been harmed, continue with the assessment.

The approved location may ask questions of the parent/agent abandoning the infant, but by law, the parent or agent do not have to answer or provide any information. Questions recommended for approved locations to ask are:

- The city/State/time/place of the birth of the infant
- Does either parent have an Indian tribal affiliation? If yes, what tribe? (If the infant's tribal affiliation is known, the Indian Child Welfare Act will apply, and the tribe will be contacted about possible tribal membership.)
- Whether a birth certificate was issued and the first name on the birth certificate
- Any health problems the parents may have
- Any other information about the infant's medical, social, and family history

The approved location must also provide the parent/agent with a health history form which the parent/agent may complete on site or may take the form to be mailed back to the approved location and, if returned to the approved location, forwarded to the Department Central Office. The Department will forward completed health forms to the custodial agency.

The city/State/time/place of the birth of the infant will be used when contacting Vital Records to obtain a birth certificate for the infant.

- When an infant is born within the state of North Dakota and the birth has been registered with Vital Records, it is important that the original birth registration be "matched" with the abandoned infant and a new birth certificate, with the birth parent names removed, be obtained for the infant. (This avoids problems associated with dual birth registrations as well as other difficulties, such as the potential for identity theft).
- When an original birth registration and information obtained about an abandoned infant indicate that the child was over age 1 year at the time they were abandoned, the parent/agent has not complied with the law. Contact law enforcement to request an investigation.

The child's tribal affiliation is important because certain protections are available to Indian tribal members. If the child's tribal heritage is unknown, the child will be considered "non-Indian" by the North Dakota tribes, regardless of racial identification. This denies the child of protections and tribal identity and can cause uncertainty in the child's life trajectory.

- When a tribal affiliation is provided, the CPS Worker must contact the child's tribe, notify the tribe of the abandoned infant and apply provisions of the Indian Child Welfare Act.

Health history, social history and family history provided by the parent/agent may be helpful going forward to provide care, background and health information for the child as well as being helpful in the event that another parent or family member steps forward on behalf of the child.

The CPS worker should gather as much information obtained from the parent/agent as is known to the person receiving the infant at the approved location, along with any other staff of the approved location who have direct knowledge of, or involvement with, the abandonment, including name, title and contact information for each.

The CPS Worker should not seek any identifying information about the parent or agent abandoning the infant. If the approved location provides identifying information, that information shall not be used to identify or contact the parent or agent.

If information from the approved location indicates that the birth was registered, provide all information obtained to North Dakota Vital Records for the purpose of 'matching' the information given to the Human Service Zone with the original birth registration. If information provided was incomplete, provide Vital Records with all the information available in the event that a 'match/ can be made. It will be necessary to obtain a court order to receive an "anonymous" (with parent names removed) birth certificate.

If the infant was abandoned at any unapproved location or left at an approved location, but not given directly to an on-duty staff person, the parent/agent has not followed the requirements of the law. Contact law enforcement to request an investigation.

The CPS Worker must contact local law enforcement to determine that there has not been a report of a missing infant from another part of the state nor from another state.

The CPS Worker must also contact the National Center for Missing and Exploited Children regarding a report of an infant reported as missing.

If no reports of a missing infant have been received, the infant has been determined to be unharmed and has been abandoned at an approved

location, with an on-duty staff member, attach all records received to the assessment in FRAME and terminate the assessment in progress.

## **When an Infant is Abandoned at a Hospital 640-01-10-80-10-05**

When an infant is abandoned at a hospital, the hospital is required to provide the infant and the parent/agent each with a numbered identification bracelet. When responding to a report of an infant abandoned at a hospital, the CPS Worker must obtain the number from these bracelets and provide that number to the Juvenile Court.

Possession of an identification bracelet does not entitle the bracelet holder to take custody of the infant on demand. If an individual possesses a bracelet linking the individual to an infant left at a hospital and parental rights have not been terminated, possession of the bracelet creates a presumption that the individual has standing to participate in a protection services action brought in Juvenile Court.

- Possession of the bracelet does not create a presumption of maternity, paternity, or custody.

Only a hospital is required to provide a bracelet.

## **When an Infant is Left at the Hospital at Birth 640-01-10-80-10-10**

Infants born in a hospital may be abandoned at that same hospital after birth under the abandoned infant law when the parent leaves the infant and communicates their intention to abandon the infant. Infants may also be left in the hospital of birth when a parent leaves the infant without communicating their intention to abandon the infant.

Under N.D.C.C. 27-20-02(1b2), "Abandon" means: As to a parent of a child not in the custody of that parent, failure by the noncustodial parent

significantly without justifiable cause: Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care.

N.D.A.C. 75-03-19.2-04 states, "Infants abandoned at a hospital at birth. When an infant is born and abandoned at birth while remaining at the same hospital, the infant will be considered an abandoned infant under this chapter when the parent of a child in that parent's custody fails to arrange for the child's discharge within ten days after the child no longer requires hospital care without regard to a parent's or agent's verbal statement of intention to abandon the infant."

When a hospital contacts the Human Service Zone regarding an infant abandoned at birth, and the parent has not indicated an intention to abandon the infant before leaving the hospital, Juvenile Court must be contacted for an emergency order for temporary custody when the infant is to be discharged from the hospital. The CPS Worker must attempt to locate and contact the parents. If there has been no contact from the parents to the hospital or the Human Service Zone, the infant may be considered an abandoned infant under the abandoned infant law after passage of 10 days if the infant is unharmed.

The CPS Worker must request the infant's medical record from the hospital, including the infant's name on any birth registration completed by the hospital. The infant's name, date and location of birth are necessary to request an "anonymous" birth certificate for the infant.

Because registration for hospitalization requires a certain amount of information, the hospital may have information about relatives of the infant. The CPS Worker must inquire whether medical records indicate identifying information for any family members.

Any information regarding relatives or connections for the infant may be requested in order to assure that any identified relatives may be contacted as potential resources for the child. The intent of the Legislature in passing this law was that family would be contacted on behalf of the infant when identified. The information may be obtained under N.D.C.C. 50-25.1-05 and

may need to be redacted to eliminate identifying information of the parent/agent.

## **Receiving Calls Regarding an Abandoned Infant 640-01-10-80-10-15**

Under the provisions of N.D.C.C. 50-25.1-15(9), if an individual calls the Human Service Zone Agency claiming to be the parent/agent and requests to be reunited with the infant who was abandoned, the agency may identify and contact the individual and attempt to obtain information regarding the identity and medical history of the parent/agent.

If an individual calls the Human Service Zone agency requesting information about the infant, the HSZ Agency may attempt to obtain information regarding the identity and medical history of the parent and may provide information about the procedures involved when an infant is abandoned. The individual is under no obligation to provide information requested and the HSZ may not attempt to compel a response in order to investigate the identity or background of the individual.

## **Central Office Notification 640-01-10-80-10-20**

When a report of an abandoned infant is received by the Human Service Zone, the CFS Central Office must be notified. Include the city/state/time/place of the birth (if known), date of birth (if known), birth name of the infant (if known), date and location of the abandonment and FRAME case number.

## **North Dakota Institutional Child Protection Services (ICPS) 640-01-40**

The Institutional Child Protection Services manual identifies protocols and procedures for the reporting and assessment of suspected institutional child abuse and neglect.

The Institutional Child Protection Services guidelines found in this manual assist and guide the Department of Human Services and its representatives

in carrying out their legal responsibilities. Inherent in the focus of the guidelines is the belief that, whether a public or private school, a residential facility or setting either licensed, certified, or approved by the department, a residential facility or a setting that receives funding from the department, institutions caring for the community's children have an obligation, and a public mandate, to abide by the highest and most stringent standards to assure the protection of children placed in their care.

## **Statutory Authority 640-01-40-01**

The specific statutory authority, definition and the basis for the Institutional Child Protection Services protocols are found in North Dakota Century Code Chapter 50-25.1 Child Abuse and Neglect. The legislation incorporates specific reference to institutional child abuse and neglect and allows the State of North Dakota to protect children from abuse and neglect in institutional settings. It establishes statutory definitions of institutional abuse and neglect and allows provision for the reporting of such acts, the assessment of the report, and the taking of corrective action.

Under provision of the law, the Department of Human Services is responsible for the assessment of reports of suspected institutional child abuse and neglect. This is true whether a joint or concurrent criminal investigation is being completed by law enforcement officials, or an internal review is conducted by an institution or a public or private school. A review with the ND Protection and Advocacy Project, or Developmental Disabilities Division is advisable when the child qualifies for services through either of these agencies. It is the responsibility of the Department of Human Services to initiate and follow through, from beginning to completion, the assessment of all reports of suspected institutional child abuse or neglect.

Further, North Dakota Century Code 50-25.1-04.1, "State child protection team - How created – Duties" addresses the structure and authority of the State Child Protection Team as follows:

1. The department shall name the members of the state child protection team. The members must be appointed for three-year staggered terms. The member who represents the department shall serve as presiding officer and is responsible for the transmittal of all team reports made pursuant to this chapter. The presiding officer shall set



meetings for the purposes of fulfilling the duties set forth in sections 50-25.1-02 and 50-25.1-04.

2. The "State child protection team" means a multidisciplinary team consisting of a representative of the department and, where possible, a representative of the state department of health, a representative of the attorney general, a representative of law enforcement, a representative of the superintendent of public instruction, a parent with lived experience, one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must be staff members of the public or private agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding, nor may the child protection team be composed of fewer than three individuals. A quorum of the state child protection team consists of a minimum of one member from the department and two other state child protection team members.
3. In every case of alleged institutional child abuse or neglect, the state child protection team shall make a determination that child abuse or neglect is or is not indicated. Upon a determination that institutional child abuse or neglect is indicated, the state child protection team promptly shall make a written report of the determination. When the subject of the report is a state-operated institution, the state child protection team promptly shall notify the governor of the determination." If there is an indicated finding on a public or private school, notice will be given Superintendent of Public Instruction, school district administrator, the president or chairman of the school board or a private school's governing body or entity.

Subsection 3 of NDCC 50-25.1-04.1 (above) recognizes an institution as the "subject" of a report of suspected institutional child abuse or neglect. Based on this reference, the institution where the abuse or neglect of a child by an employee of that institution is suspected to have occurred shall be considered to be the "subject" (as defined in number 3 of the section of this manual chapter entitled "Definitions", below) of any report of suspected institutional child abuse or neglect.

## Definitions 640-01-40-05

**"A person responsible for the child's welfare"** means an institution that has responsibility for the care or supervision of a child. (N.D.C.C. 50-25.1-02(1))

**"Department"** means the department of human services or its designee.

**"Institutional child abuse or neglect"** means situations of known or suspected child abuse or neglect in a public or private school, a residential facility or setting either licensed, certified, or approved by the department, a residential facility or a setting that receives funding from the department.

Facilities excluded include correctional, medical, home- and community-based residential rehabilitation, early childcare facilities (day cares), foster homes, and educational boarding care settings.

The terms used in this chapter have the same meaning as in North Dakota Century Code chapter 50-25.1, except:

1. "Assessment" is the factfinding process designed to provide information which enables a determination to be made whether institutional child abuse or neglect is indicated.
2. "Determination" means the decision made by the state child protection team that institutional child abuse or neglect is or is not indicated.

## Department's Designee 640-01-40-10

The CPS Central Intake Unit will shall act on behalf of the department for the purpose of receiving reports of suspected institutional child abuse or neglect.

The Institutional Child Abuse and Neglect Unit of Children and Family Services Division shall be responsible for conducting Institutional Child Protection Services assessments.

## **Reporting Suspected Institutional Child Abuse and Neglect 640-01-40-15**

The North Dakota Department of Human Services INSTITUTIONAL CHILD PROTECTION SERVICES policies and procedures for accepting reports of institutional child abuse and neglect are based on North Dakota Century Code [50-25.1](#).

### **Who is Required and Permitted to Report Known or Suspected Institutional Child Abuse and/or Neglect 640-01-40-15-01**

Persons Required and Permitted to Report are Identified in NDCC [50-25.1-03](#):

1. Any physician, nurse, dentist, optometrist, dental hygienist, medical examiner or coroner, or any other medical or mental health professional, religious practitioner of the healing arts, schoolteacher or administrator, school counselor, addiction counselor, social worker, child care worker, foster parent, police or law enforcement officer, juvenile court personnel, probation officer, Division of Juvenile Services employee, or member of the clergy having knowledge of or reasonable cause to suspect that a child is abused or neglected, or has died as a result of child abuse or neglect, shall report the circumstances to the department if the knowledge or suspicion is derived from information received by that person in that person's official or professional capacity. A member of the clergy, however, is not required to report such circumstances if the knowledge or suspicion is derived from information received in the capacity of a spiritual adviser.
2. Any person having reasonable cause to suspect that a child is abused or neglected or has died as a result of abuse or neglect, may report such circumstances to the department.
3. A person who has knowledge of or reasonable cause to suspect that a child is abused or neglected, based on images of sexual conduct by a child discovered on a workplace computer, shall report the circumstances to the department.

4. The administrator of an entity which employs more than 25 individuals who are required to report suspected child abuse and neglect (mandated reporters) to designate an agent within that entity on behalf of staff members or volunteers within that entity. However, the designated agent may not impose conditions, including prior approval or prior notification, upon a staff member or volunteer reporting suspected child abuse or neglect under this chapter or exercise any control, restraint, or modification, or make any changes to the information provided by the staff member or volunteer. A report filed by the designated agent must include the first and last name, title, and contact information for every staff member or volunteer of the entity who is believed to have direct knowledge of the facts surrounding the report. A single report from the designated agent under this subsection is adequate to meet the reporting requirement on behalf of staff members and volunteers of the entity listed with the required information. However, an individual may continue to make reports separate from the designated agent. Reference N.D.C.C. 50-25.1-04.

### **Employer Retaliation is Prohibited as Identified in NDCC 50-25.1-09.1 640-01-40-15-05**

1. An employer who retaliates against an employee solely because the employee in good faith reported having reasonable cause to suspect that a child was abused or neglected, or died as a result of abuse or neglect, or because the employee is a child with respect to whom a report was made, is guilty of a class B misdemeanor.
2. The employer of a person required or permitted to report pursuant to section 50-25.1-03 who retaliates against a person because of a report of abuse or neglect, or a death of a child resulting from abuse or neglect, is liable to that person in a civil action for all damages, including exemplary damages, costs of the litigation, and reasonable attorney's fees.
  - a. There is a rebuttable presumption that any adverse action within ninety days of a report is retaliatory. For purposes of this subsection, an "adverse action" is action taken by an employer against the person making the report or the child with respect to whom a report was made, including:

- Discharge, suspension, termination, or transfer from any facility, institution, school, agency, or other place of employment
- Discharge from or termination of employment
- Demotion or reduction in remuneration for services
- Restriction or prohibition of access to any facility, institution, school, agency, or other place of employment, or persons affiliated with it

## Penalty for Failure to Report 640-01-40-15-10

1. Penalty for failure to report, penalty and civil liability for false report are found in NDCC 50-25.1-13:

Any person required by this chapter to report or to supply information concerning a case of known or suspected child abuse, neglect, or death resulting from abuse or neglect who willfully, as defined in section 12.1-02-02, fails to do so is guilty of a class B misdemeanor. Any person who willfully, as defined in section 12.1-02-02, makes a false report, or provides false information which causes a report to be made, under this chapter is guilty of a class B misdemeanor unless the false report is made to a law enforcement official, in which case the person who causes the false report to be made is guilty of a class A misdemeanor. A person who willfully makes a false report, or willfully provides false information that causes a report to be made, under this chapter is also liable in a civil action for all damages suffered by the person reported, including exemplary damages.

2. An institution's own policy may require that an employee report suspected institutional child abuse upward through a chain of agency command instead of reporting directly to the Child Abuse and Neglect Reporting Line. **Agency policy does not waive the statutory obligation of an employee to assure that a report is made to**

**the Department whenever institutional child abuse or neglect is suspected.**

## **What Should be Reported 640-01-40-15-15**

Knowledge or reasonable cause to suspect that a child is abused or neglected or has died as a result of abuse or neglect by an institution is required to be reported by a mandated reporter when that knowledge or suspicion is received by an individual in that individual's official or professional capacity. Any person having reasonable cause to suspect reasonable cause to suspect that a child is abused or neglected or has died as a result of abuse or neglect by an institution may report such circumstances.

The Institutional Child Protection Services Unit should be consulted if there is any reason to question whether or not an incident, circumstance, or concern should be reported as suspected institutional child abuse or neglect.

If it is determined, through consultation between the Institutional Child Protection Services Unit and the institutional staff or administration, that an incident, circumstance or concern will be reported as suspected institutional child abuse or neglect, a person who is required to report knowledge or suspicion that a child has been abused or neglected is responsible for completing the SFN 960, "Report of Suspected Child Abuse or Neglect," via contacting the CPS Central Intake Unit. If there is clear evidence of a criminal act the institution should also contact law enforcement and state on the 960 they have also notified law enforcement and what agency they contacted. After receiving the report ICPS will consult with law enforcement regarding all allegations of sexual abuse.

The following types of known or suspected child abuse or neglect within an institution will be reported:

### **Physical Maltreatment:**

This occurs when persons responsible for the child's care in an institution inflicts or allow to be inflicted upon a child, any bodily injury. This includes, but is not limited to:

**Marks and/or welts**

Examples: When a child...

- Is hit with a belt, or other object, or is pushed, tripped, choked, or thrown resulting in marks or welts
- Is restrained which results in bruises, welts, or other injuries
- Is tied with rope, tape, or other means

**Cuts, scratches, punctures**

Examples: When a child...

- Is scratched with a caregiver's fingernails or other objects, or jabbed with a sharp instrument

**Broken bones and skull fractures**

Examples: When a child...

- Is forcefully pulled out of a bed, chair or off the floor
- Is hit or thrown against a wall
- Is hit with a bat or other hard object which may cause injury to the child

**Burns**

Examples: When a child...

- Is placed in a hot tub of water,
- Is purposely burned with a cigarette, iron, grill, or other hot object, or placed on or over a stove flame, which results in any degree of burn.

**Human bite marks**

Example: When a child...

- Is bitten by a caregiver to teach the child not to bite others or as a result of the caregiver's frustration with the child

**Internal injuries**

Examples: When a child...

- Is purposely given or sold substances, which may result in sickness or injury or are controlled or illegal substances
- Is given prescription or psychotropic medication without the written approval of a licensed physician.

**General Abuse**

Examples: When a child...

- Is the focus of unwarranted disciplinary actions
- Is placed in isolation without being provided with ongoing monitoring
- Is not permitted to see his/her family as a means of punishment
- Does not receive a meal because he/she was acting up
- Does not receive bedding because he/she was acting up

**Harmful Restraint/Control:**

This occurs when restraint, isolation or medication is used, which could harm or endanger a child. Cases which involve minor injuries resulting from physical restraint, but for which there has been no allegation of abuse or neglect, may be further assessed:

- if there exists a documented pattern of incidents involving the same staff members and/or the same child,
- if there is any indication in the report that the injury resulted from negligence or misconduct on the part of the institution, such as:
  - indications that staff members are not adequately trained or supervised
  - are escalating situations
  - failing to use other means to de-escalate situations before resorting to physical intervention.
- A restraint is considered inappropriate if the purpose of the restraint is determined to be punishment or compliance, regardless of training philosophy or application.

**Sexual Abuse:**



This occurs when persons responsible for the child's care at an institution commit, or allow to be committed, an act of sexual abuse against a child.

Examples: When a child...

- Is raped
- Is engaged in sexual intercourse, anal intercourse, fellatio, cunnilingus, or a child's genitals, or buttocks, breasts are manipulated
- Is exposed to or allowed to view another person's genitals for the purposes of exhibitionism
- Is forced, encouraged, or knowingly allowed to engage in sexual activity with other children or adults
- Is forced, encouraged, or knowingly allowed, to engage in sexual activity with animals
- Is enticed permitted, encouraged, compelled, employed, or allowed to act, model, view, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that is obscene or involves exploitation
- Is exposed to pornography found on electronic devices belonging to, or allowed by, the institution

**General Neglect:**

This occurs when there is any failure or omission of care to a child by a facility responsible for their care so as to jeopardize the well-being of a child in such a way that could lead to physical or emotional injury or damage.

**Inadequate or Improper Supervision:**

Examples: When a child...

- Is left without adult supervision appropriate for the child's age, mental or physical condition and/or other special needs of the child. This means that the child is unable to care for his/her own

basic needs or is unable to exercise good judgment in responding to any kind of physical or emotional crisis

- Is injured by another child when they are left unsupervised
- Is sexually assaulted by another child after being left unattended
- Is not protected or responded to by staff due to inadequate staffing or impaired staff being allowed to care for children
- Is placed in an isolation room and is not adequately monitored resulting in the child harming himself/herself

**Danger to life, health, mental or social adjustment:**

Examples: When a child...

- Is exposed to danger to his life, health, mental, or social adjustment by the institution failing to provide, or to provide access to, food, clothing, shelter, education, medical/surgical care, or supervision
- Is fighting with another child and there is no effort to intervene
- Is not provided with his/her prescribed medication, resulting in adverse consequences to the child
- Is allowed to self-harm

**Psychological Maltreatment:**

Psychological maltreatment in institutional care must be considered when a child is subjected to a negative atmosphere in which the child consistently feels unloved, unwanted, insecure, unworthy, or otherwise lacks a positive relationship which is deemed essential for a person's physical, intellectual, and emotional well-being.

Examples: When a staff member...

- Ridicules and/or degrades a child or their family
- Criticizes, threatens, or ignores a child

- Demonstrates obvious preference for one child over another
- Initiates inappropriate consequences or punishments such as tying up, taping the mouth, or locking the child in a room or out of the milieu or living unit.

### **Death of a Child in an Institution:**

When there is a death of a child in an institution a report of suspected child abuse and neglect should be made immediately to the Department.

When a report of a death is received by the Department, law enforcement will be contacted to discuss a joint assessment/investigation.

In collaboration with and approval from law enforcement a site visit will be made to the institution by the ICPS Worker.

- This will be done at the earliest possible time after the report is received.
- The Institutional Child Protection Services worker will assess the institutions' response to the situation and the implementation of supportive services.
- The Institutional Child Protection Services worker will offer assistance in accessing services such as crisis intervention and supportive counseling for staff, administration, and other children living in or attending the institution.
- The Institutional Child Protection Services worker will review the circumstances of the death, gather information, and follow the procedures outlined throughout this chapter for assessment of a report of suspected institutional child abuse or neglect.

## **Method of Reporting - To Whom, How, and When 640-01-40-15-20**

All written and oral reports of suspected institutional abuse or neglect will be made to the Child Abuse and Neglect Reporting Line. State Form Number 960 (SFN 960) will be used for all written reports.

1. Requirements for reporting suspected or known institutional child abuse or neglect are identified in NDCC [50-25.1-04](#):

All persons mandated or permitted to report cases of known or suspected child abuse or neglect shall immediately cause oral or written reports to be made to the department or the department's designee. Oral reports must be followed by written reports within forty-eight hours if so requested by the department or the department's designee. A requested written report must include information specifically sought by the department if the reporter possesses or has reasonable access to that information. Reports involving known or suspected institutional child abuse or neglect must be made and received in the same manner as all other reports made under this chapter.

2. Information to be provided when making a report should include, at a minimum:

- Name of institution where abuse or neglect is suspected to have occurred
- Name of all staff members who witnessed, participated in, or who have knowledge of the suspected institutional child abuse or neglect
- Names, dates of birth, and current location (if other than the facility that is the subject of the report) of child(ren) suspected of being abused or neglected
- Dates, or approximate dates, and the location where the incident of suspected abuse or neglect occurred
- Nature and extent of suspected abuse or neglect
- Any actions taken by the institution in response to the reported incident
- Name, address, and phone number of the reporter
- Name(s) of other person(s) who may have information concerning the suspected abuse or neglect

## Institution's Reporting Policies/Requirements 640-01-40-20

### 1. Reporting Information Provided to Employees

Institutions, at a minimum, should assure that the following information is given to all employees and/or residents regarding institutional child abuse and neglect:

- A copy of NDCC 50-25.1 - Child Abuse and Neglect Law;
- The phone number and email for Child Abuse and Neglect Reporting Line
- Institutional location of form SFN 960, "Report of Suspected Abuse and Neglect";
- The agency policy(s) regarding an employee involved in a reported incident of suspected child abuse or neglect, i.e. status of employment, suspension, and termination requirements; and
- In-service training for new employees and existing staff.

### 2. ND Regulatory/Licensure Requirements

Service providers, meeting the definition of institution under NDCC 50-25.1, may have requirements for licensure that pertain to child abuse and neglect. Minimum policy requirements are that all staff members of an institution will receive a copy of the institution's policy, be trained in its use, and receive on-going training as a requirement of employment at the institution.

Developmental Disabilities Group Homes, Qualified Residential Treatment Centers, , and Psychiatric Residential Treatment Facilities North Dakota Administrative Code 75-03-17 (PRTF) 75-04-03 (QRTP) 75-04-01-20 (DD) having read the law requiring the reporting of suspected child abuse and neglect, NDCC 50-25.1. All these facilities are required to have clear written personnel policies on "procedures for reporting suspected child abuse and neglect" and must be made available to each employee.

### 3. Developmental Disabilities Group Homes

An employee of any group home licensed by the Division of Developmental Disabilities is required by policy and statute to report suspected institutional child abuse and neglect to the Department in

addition to any other reporting procedures that may be required by DD policies.

## **Institution's Quality Management Policies Internal Review 640-01-40-20-05**

**In all cases where institutional abuse and/or neglect is suspected, it is imperative that a report of suspected institutional abuse or neglect be made to the Department. This must be completed prior to any internal interviews or investigations initiated by the institution, and after it is determined that the child is safe.**

Many institutions have policies and procedures for how significant incidents/injuries to residents will be documented and reviewed by the institution or its designee (such as a quality control or risk management person). **Immediate reporting to the Department of any suspected child abuse or neglect will assist in assuring that the assessment of the incident, as required by NDCC 50-25.1, will not in any way be compromised or obstructed.** Joint interviews may be allowed at the discretion of the Institutional Child Protection Services Worker. Staff and children will be interviewed alone unless there are extenuating circumstances such as:

- Safety of the Institutional Child Protection Services Worker
- Child's ability to communicate
- At the request of the child (only staff who are not involved in the reported incident).

A public or private school may complete an investigation into any conduct reported or alleged to constitute institutional child abuse or neglect at the school's institution concurrently with a child protection assessment.

If a public or private school conducts an investigation concurrently with a child protection assessment, the department or the department's authorized agent and the public or private school shall coordinate the planning and execution of the child protection assessment and public or private school investigation efforts to avoid a duplication of factfinding efforts and multiple interviews if practical.

## **Intake of a Report 640-01-40-25**

As required in NDCC 50-25.1-04 reports involving known or suspected institutional child abuse or neglect must be made and received in the same manner as all other reports made under the chapter. The Centralized Intake Unit will receive the reports of suspected institutional child abuse or neglect regarding an institution and immediately forward them to the Institutional Child Protection Services Unit.

## **Receipt of the Report 640-01-40-30**

When a report is referred to the Institutional Child Protection Services Unit ICPS takes the lead in triaging the report. If ICPS determines that the report needs to be sent back to the zone for assessment, ICPS will refer the report back to Intake for FRAME entry and sending to a CPS supervisor for assignment.

Once Institutional Child Protection Services worker receives and accepts the report from Central Intake they will input the report into the Institutional Child Protection Services SharePoint Site within one business day. The SharePoint system then automatically generates a notification to the Family Services CPS Supervisor, and the licensor of the agency.

## **Triage of Reports 640-01-40-35**

All reports of suspected institutional child abuse or neglect received by the Department will be assessed.

### **Assessment Options:**

The ICPS Unit Supervisor, and the Institutional Child Protection Services worker, will identify/determine the assessment status as:

- An administrative assessment/referral
- An assessment which may be terminated in progress; or
- A full assessment.

1. Consultation with Other Departmental Officials/Relevant Agencies
  - a. **Protection & Advocacy Project (P&A)** The Department and the Protection and Advocacy Project may consider conducting/coordinating joint assessments when the child qualifies for P&A services. Protocols for joint assessment will be established by the Department and P&A.
    1. The Institutional Child Protection Service worker assigned to the case will notify the P&A Project that a report has been received when it can be reasonably determined child meets P&A Project criteria. The notification will include:
      - Name of institution
      - Name(s) of the child(ren)
      - Subject(s) of the report
      - Nature of the suspected abuse
    2. The decision to conduct a joint assessment will be made by the Institutional Child Protection Services worker and the P&A project.
    3. The Institutional Child Protection Service worker will be the lead for a joint assessment and will determine, with P&A, the extent of the joint assessment activities. The joint assessment activities may include joint interviews, review of institution records and documents, and assessment report preparation.
    4. Where a report has been jointly assessed, P&A may be invited to attend the review by the State Child Protection Team of the respective report.
    5. The Institutional Child Protection Services worker will provide P&A with notification of the Team's determination of a report and of any recommendations made.
  - b. **Regulatory/ Licensing Agencies:** The Department and the licensing agency may consider conducting/coordinating joint assessments. Protocols for joint assessment will be established by the Department and the relevant licensing agency.
    1. The Institutional Child Protection Services worker, via SharePoint, will notify the licensing agency that a report has been received regarding a child who is in a licensed institution.



2. The decision to conduct a joint assessment will be made by the Institutional Child Protection Services worker and the licensing staff.
  3. The Institutional Child Protection Services worker will normally be the lead person for a joint assessment, unless otherwise determined by the Field Services Specialist Supervisor.
- c. **Law Enforcement:** In cases where the report of institutional child abuse and neglect is of sexual abuse, physical abuse or other criminal violations, law enforcement must be notified by the ICPS worker. If it is decided a joint assessment and investigation will commence, law enforcement will take the lead.
- d. **Schools:** A public or private school may complete an investigation into any conduct reported or alleged to constitute institutional child abuse or neglect at the school's institution concurrently with a child protection assessment.
1. If a public or private school conducts an investigation concurrently with a child protection assessment, the department or the department's authorized agent and the public or private school shall coordinate the planning and execution of the child protection assessment and public or private school investigation efforts to avoid a duplication of factfinding efforts and multiple interviews if practical
- e. **Other Relevant Officials/Agencies:** The Department and the Institutional Child Protection Services worker will determine notification of any other relevant officials or agencies.

## Assessment Plan 640-01-40-40

The Institutional Child Protection Services worker will develop an assessment plan for each report of suspected institutional child abuse or neglect based on the specific circumstances of each report.

Once a report is received the Institutional Child Protection Services worker will have contact with the named victim/victims within 3 business days. If an Institutional Child Protection Services worker is not available a different field service specialist, or HSZ worker will make contact utilizing the Face-to-face contact form.

## **Administrative Assessment or Referral 640-01-40-40-01**

### **1. Determination of Administrative Assessment/Referral:**

The determination is made under direction of the ICPS Unit Supervisor and the Institutional Child Protection Services worker. A report may be considered for administrative assessment or referral under the following conditions:

- The reported concerns clearly fall outside provisions of NDCC 50-25.1;
- The concerns are strictly a licensing related complaint or deal with licensing standard (e.g. inadequate staffing, overcrowded population, inadequate ventilation and heat, dietary and clothing needs)
- The reporter can give no credible reason to suspect a child has been abused or neglected
- There is insufficient information to identify or locate the child
- There is reason to believe the reporter is willfully making a false report
- The suspected child abuse or neglect took place on an Indian reservation and assessment is the responsibility of the tribal government or BIA
- The report involves non-caretaker sexual or physical abuse (unless a supervision, or other, issue)

If the information found early on in the assessment process, through contacts with the institution, child, subject or collateral sources, leads the Institutional Child Protection Services worker provides evidence that a definition of abused child or neglected child cannot be met and

no further assessment is needed, the assessment may be terminated in progress after consultation with the ICPS Unit Supervisor.

2. Completion of the Institutional Child Protection Services Administrative Assessment or Referral Form

Upon the determination that a report will be administratively assessed or referred, the Institutional Child Protection Services worker complete the "Institutional Child Protective Service Staffing Form". A copy of the completed Institutional Child Protection Services form and SFN 960 will be uploaded into Share Point by the Institutional Child Protection Services worker within 10 working days of the determination to administratively assess/refer the report.

3. Notification:

The Department will determine whether any other entity will be notified regarding receipt of the report, about concerns identified in the report, or as to the reason for administrative assessment, administrative referral or assessment terminated in process.

## **Full Assessment Completion Requirements 640-01-40-45**

When the need for a full assessment is determined, the Department will identify the extent or scope of the assessment plan. A full assessment will be completed within sixty-two (62) days of the assignment of the report to an ICPS Worker, unless an extension of the time is requested and granted by the CPS Field Services Supervisor.

1. Identification of Time Frames/Child Safety and Present Danger

All institutional child abuse or neglect assessments must be initiated no later than three working days after receipt of a report by the Institutional Child Protection Services worker unless the Department prescribes a different time in a particular case.

- When reports involve a serious threat or danger to the life or health of a child, the assessment and any appropriate protective measures including the development of a safety plan by the institution and Institutional Child Protection Services worker, must commence immediately upon receipt

of a report by the Institutional Child Protection Services worker.

- An assessment in institutional child abuse or neglect is initiated by the Institutional Child Protection Services worker receiving the report and opening the case in Share Point or making face to face contact with the named victim/victims.

2. The evaluation of safety and risk to the child(ren) begins at the time of intake and continues throughout the assessment process. Having obtained as much information as possible from the report or and any other entity, an evaluation as to the immediate safety of the identified child(ren), and other children in the institution, must be made to determine appropriate action to assure safety for the child(ren).

Assessment of safety is based on the circumstances of the report. Issues to address in determining safety include:

- What are the dangers to any individual child?
- What patterns indicate that some children may not be safe while others are?
- Can the ongoing safety of children be assured as the assessment progresses?
- What are the risks related to continuing/future maltreatment?

### 3. Assignment of Assessment Responsibilities

The Institutional Child Protection Services worker will serve as the lead for the assessment, unless otherwise determined by the CPS Field Services Supervisor. The Institutional Child Protection Services worker, in consultation with the CPS Field Services Supervisor, will implement the assessment plan, conduct the assessment, prepare and submit the assessment report.

- The Department may assign an alternate Institutional Child Protection Services worker to conduct the assessment if a conflict of interest is evident or exercise the option to designate a team of individuals to assist the Institutional Child Protection Services worker.

#### 4. Notification of Internal and External Cooperating Agencies

The Department will determine how and when any entity will receive notice that a report has been received or who will be notified of the initiation of a full assessment. Entities to be considered for notification include but are not limited to:

- a. Law Enforcement. A joint assessment is required in cases of reports of sexual abuse, serious physical abuse, or other possible criminal violations.
  - The role of law enforcement and the role of department personnel in the assessment process will be clearly established at assessment onset.
  - A law enforcement investigation regarding the criminal aspect of the incident will not relieve the Department of its responsibility to assess the safety of the child(ren) in the institution where there has been a report of suspected abuse.
  - While law enforcement and the courts have authority to hold an individual culpable in a criminal matter, information obtained during a criminal investigation can be vital to the Department's assessment of suspected institutional child abuse or neglect and the culpability of the institution in such a matter.
- b. Licensing Authority for Qualified Residential Treatment Center, Psychiatric Residential Treatment Facilities, Shelter Care Facilities, and other facilities licensed or approved by the Department.
  - The licensing authority may review the case in Share Point regarding the status of a report at any point in the assessment process.
- c. North Dakota Protection and Advocacy Project.
  - The Protection and Advocacy Project may participate in joint assessment activities as described in section 640-50-45-10(2a), of this manual.
- d. Developmental Disabilities Division, Department of Human Services (DDD).

- The Central Office, Institutional Child Protection Services, may provide the D.D. Division with notification of the intake of the report and/or the status of the assessment regarding institutions licensed or regulated by the Developmental Disabilities Division.
- e. Institution that is the Subject of the Report.
- The director/administrator or the designee of an institution that is the subject of a report will be the primary contact at the institution for the Institutional Child Protection Services worker.
  - To facilitate a full, complete, and accurate assessment, the primary contact of the institution will ensure that staff and children be available for interviews by the Department or law enforcement.
  - The institution will ensure documents and records are made available and accessible.
  - The Department will make effort to inform the primary contact of the institution as to the plan for, and progress of, the assessment.
- f. Parent, Guardian, Case Manager, and/or Legal Custodian.
- In most cases, the custodian of the child(ren) will have been notified by the institution in accordance with the institution's policies. If not, the Department will determine the need for notification of the parent or guardian, Human Service Zone case managers, Division of Juvenile Services case managers, or any others who may be responsible for the child. In most instances contact with the custodian/guardians is considered to be the best practice.
  - However, it is not required to notify a parent, guardian, or custodian prior to interviewing the child(ren). N.D.C.C. 50-25.1-05 allows The department, the authorized agent, or the law enforcement agency to interview, without the consent of a person responsible for the child's welfare, the alleged abused or neglected child and any other child who currently resides or who has resided with the person responsible for the child's welfare or the alleged perpetrator and to conduct the interview at a school, child

care facility, or any other place where the alleged abused or neglected child or other child is found.

- The person/agency with whom the legal custody of a child resides may be asked to assist in the removal and relocating of children from the institution if the Department determines there to be safety concerns, or they may be asked for information concerning children under their care.

g. Schools

- The Institutional Child Protection Services worker will work with school administrators by providing notice of the onset of a of a child protection assessment to the public or private school.
  - Typically the principal, unless the principal is alleged to be involved, then notice will be given to the Superintendent or school board president.
- The Institutional Child Protection Services worker will then coordinate the planning and completion of the Institutional Assessment with any investigation conducted with the public or private school, since a public or private school may complete an investigation into any conduct reported or alleged to constitute institutional child abuse or neglect at the school's institution concurrently with a child protection assessment.
  - Whenever practical, the school administrator and the Institutional Child Protection Services Worker will coordinate their efforts to avoid a duplication of fact-finding efforts and multiple interviews.
  - If a report of suspected child abuse or neglect has potential to violate a criminal law (such as suspected child sexual abuse or physical abuse), law enforcement will be contacted and will take the lead in any criminal investigation.

## **Assessment Process 640-01-40-45-01**

### **1. Entry Interview with the Director or Designee of the Institution.**

- A telephone or on-site entry interview will be conducted with the Director or designee of the institution.

## **2. Interviews and Gathering of Information.**

- Gathering of information will include interviews of the following:
  - suspected child victim,
  - staff members who witnessed, participated in, or have knowledge of the suspected institutional child abuse or neglect.
  - Additional interviews may be done with witnesses and other relevant sources.
  - Information will be sought from institutional records and other sources identified during the assessment process.
- When interviewing a child during a joint assessment with law enforcement and the child is or maybe a suspect in a criminal investigation, it is the responsibility of the investigating officer to notify the legal custodian and gain consent to interview.
- When interviewing a child for an assessment it is not required to notify the legal custodian and gain consent prior to the interview.

## **3. Review Policy and Procedure Practices of the Institution.**

- It is expected that the institution will cooperate with the assessment by providing access to, and copies of, any documents the Department deems necessary.

## **4. Exit Interview with the Director of the Institution, School or Designee.**

- A telephone or on-site exit interview may be scheduled with the Director, Principle or designee of the institution or school to inform the institution of the status of the assessment.
- The only information that will be shared with the institution are child safety concerns which need to be immediately addressed, whether the on-site assessment is completed and the date and tentative schedule for submitting the report for determination by the State Child Protection Team.



## **Submitting the Written Report 640-01-40-45-05**

Interviews, relevant documents collected through the assessment, and observations shall be documented in a written assessment report (SFN 299). All documentation will be uploaded into the Institutional Child Protection Services Share Point Site, and annotated that work is complete within 62 days of the receipt of the report by the Institutional Child Protection Services worker conducting the assessment unless an extension of the time is requested and granted by the Children and Family Services Field Service Specialist Supervisor.

- The written assessment will include the standard assessment report SFN 299 and any attachments (including the 960). Attachments can be scanned in separately or part of the assessment report.
- The Staffing sheet will be uploaded separately.
- Notification letters will be uploaded separately from the assessment report.

## **State Child Protection Team (SCPT) 640-01-40-50**

The State Child Protection Team (SCPT) member composition and duties are identified by NDCC 50-25.1-04.1. The SCPT is responsible for the review of the assessment report and shall make a determination that child abuse or neglect is, or is not, indicated. The SCPT may meet at any time, confer with any individuals, groups, and agencies, and may issue reports or recommendations on any aspect of child abuse or neglect it deems appropriate. All meetings of the SCPT are closed to the public.

### **State Child Protection Team - Roles 640-01-40-50-01**

#### **1. Presiding Officer**

The presiding officer on the SCPT is the Administrator of Child Protection Services who calls the meeting to order, introduces the participants and the assessment report, facilitates discussion, and calls for the determination vote or consensus.

The Presiding Officer serves as a member, and will record attendance, the determination, any recommendations, and will advise and provide technical assistance.

## 2. SCPT Members

•The SCPT is made up of a representative of the department and, where possible:

- a physician,
- a representative of a child-placing agency,
- a representative of the state department of health,
- a representative of the attorney general,
- a representative of law enforcement,
- a representative of the Superintendent of Public Instruction,
- a parent with lived experience,
- one or more representatives of the lay community,
- as an ad hoc member, the designee of the chief executive official of any institution named

It is not appropriate for a staff person who is directly involved in the concerns of the report to be in attendance at the SCPT meeting during the staffing of that report.

Team members review all reports received by the Department.

All full assessments are presented to the SCPT members. The SCPT members analyze the information provided to them and based on their expertise, make a determination by either an agreement of consensus or a voice vote.

## 3. Any Other Person Appropriate to Assist The SCPT

By invitation of the presiding officer, other persons may attend a meeting of the SCPT for the purpose of assisting the Team in the performance of their duties. These persons may include:

- representatives of the licensing entity
- Representatives of the Protection and Advocacy Agency
- Developmental Disabilities Division
- Child Fatality Review Panel, etc.

## State Child Protection Team - Procedures 640-01-40-50-05

### 1. Scheduling of Meetings

The Department establishes the SCPT meeting schedule.

### 2. Scheduling Review of Assessment Reports

Following the completion of the written assessment report, a review will be scheduled at the next SCPT meeting.

### 3. Notification of SCPT Meeting

The Institutional Child Protection Services worker will notify the team members as time and place of the meeting.

### 4. Distribution of Assessment Report

Copies of the assessment report will be distributed to the SCPT no later than two (2) working days prior to the meeting. The ad hoc member may request to review a redacted copy of the assessment report prior to the meeting.

### 5. Quorum

A quorum of the state child protection team consists of a minimum of one member from the department and two other state child protection team members. If there is not a quorum the meeting will be rescheduled at the earliest agreed upon time and date.

### 6. Determination

The SCPT will make a determination whether child abuse or neglect is indicated or not indicated concerning the institution that is suspected of having abused or neglected a child(ren) who are/were resident(s)/student(s) of that institution.

The presiding officer makes the final determination as to whether child abuse or child neglect is indicated or not indicated.

## 7. Recommendations/Corrective Actions

The SCPT may offer recommendations or corrective actions to the institution named in the report as well as time frames for a required response. These recommendations may be made available to the public as long as the identity of the reporter, the child(ren), and the parents of the children involved are not released. The SCPT may refer recommendations to any other entity deemed appropriate in assuring that the recommendations or corrective actions are addressed by the institution. The facility will submit the corrective action plan to their licensing body within 30 days of an indicated assessment.

## 8. Notification of Relevant Parties

### 9. Entities who may be notified of a determination include, but are not limited to:

- the licensing authority for the institution
- law enforcement
- Protection and Advocacy
- Child's guardian, parent, legal custodian
- appropriate courts
- Superintendent of Public Instruction
- school district administrator
- the president or chairman of the school board or a private school's governing body or entity if the subject of the report is a public or private school
- Executive Director of the Department of Human Services

## **Monitoring of Recommendations and/or Corrective Action Plan 640-01-40-50-10**

When a determination that institutional child abuse or neglect is indicated, relative to a residential facility or setting either licensed, certified, or approved by the department or a residential facility or setting that receives funding from the department, that facility or setting shall engage in an improvement plan approved by the department.

Failure to complete the approved improvement plan must result in notification to the residential facility or setting's board of directors and to any entity that accredits the facility or setting.

Notification must include the written report of the state child protection team, the approved improvement plan, and areas of deficiency that resulted in the notification.

## **Review of Assessment Result 640-01-40-60**

An institution aggrieved by the determination of the SCPT may request a meeting with the Team to review the assessment decision and attempt resolution of any elements of dispute. The request for a review meeting may be made to the Institutional Child Protection Services worker.

## **Retention of Records 640-01-40-70**

Records of Institutional Child Protection assessments will be retained according to record retention policies established by the Department.