

NORTH CAROLINA LAWS MANDATORY REPORTING LAWS

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This document was prepared as a handout to accompany the webinar, “Mandatory Reporting: Overview of North Carolina Law.” It summarizes North Carolina laws that require health care providers to make reports to departments of social services or law enforcement. The document includes citations with links to North Carolina laws and to provisions of the HIPAA Privacy Rule. The full text of North Carolina laws is available on the North Carolina General Assembly’s website, ncleg.gov. The full text of the HIPAA Privacy Rule is linked through the U.S. Department of Health & Human Services’ HIPAA for Professionals website, <https://www.hhs.gov/hipaa/for-professionals/privacy/index.html>.

PART 1. REPORTS TO THE DEPARTMENT OF SOCIAL SERVICES: CHILD ABUSE, NEGLECT, AND DEPENDENCY

Any person or institution who has cause to suspect that a child under the age of 18 is abused, neglected, or dependent must make a report to the county department of social services (DSS). [G.S. 7B-301](#).¹

1. Who must make a report?

North Carolina law requires any person with cause to suspect that a child under 18 is abused, neglected, or dependent to make a report. This is called universal mandated reporting. Some states require only certain professionals to make reports, but in North Carolina the duty to report extends to everyone.²

2. When must a report to DSS be made under these laws?

A report must be made when a person has cause to suspect that a child under the age of 18 is an abused juvenile, a neglected juvenile, or a dependent juvenile, as those terms are defined in [G.S. 7B-101](#).

“Abused juvenile” means a child under age 18 whose parent, guardian, custodian, or caretaker does any of the following:

- Inflicts or allows to be inflicted upon the child a non-accidental, serious physical injury;
- Creates or allows to be created a substantial risk of non-accidental, serious physical injury;
- Uses or allows to be used upon the child cruel or grossly inappropriate procedures or devices to modify behavior;
- Commits, permits, or encourages the rape of the child or specific other sexual crimes in which the child is a victim;
- Creates or allows to be created serious emotional damage to the child, as evidenced by the child’s severe anxiety, depression, withdrawal, or aggressive behavior toward him/herself or

¹ [G.S. 7B-301](#) also requires a report to DSS when a person suspects that the death of a child under the age of 18 is due to maltreatment. Reportable child deaths will not be discussed further in this handout, which is focused on reports related to living children who are in danger.

² The only exception to the universal mandate is for attorneys who acquire the information through privileged communications with clients they are representing in abuse, neglect, or dependency cases. [G.S. 7B-310](#).

others;

- Encourages, directs, or approves of delinquent acts involving moral turpitude by the child; or
- Commits or allows to be committed an offense of human trafficking, involuntary servitude, or sexual servitude of the child.

“Neglected juvenile” means a child under age 18 who:

- Is found to be a victim of human trafficking under G.S. 14-43.15; or
- Whose parent, guardian, custodian, or caretaker does not receive proper care, supervision, or discipline; or
- Has been abandoned; or
- Is not provided necessary medical or remedial care; or
- Lives in an environment injurious to the child’s welfare; or
- Whose custody has been unlawfully transferred under G.S. 14-321.2; or
- Has been placed for care or adoption in violation of the law.

“Dependent juvenile” means a child who needs assistance or placement because:

- The child has no parent, guardian, or custodian responsible for the child’s care or supervision; or
- The child’s parent, guardian, or custodian is unable to provide for the care or supervision and lacks an appropriate alternative childcare arrangement.

If a person or institution has cause to suspect that a child is a victim of human trafficking, a report to DSS must be made. Children under the age of 18 who engage in commercial sex work are always considered to be trafficked.³ Other children may be trafficking victims as well.

For other circumstances, whether a report is required often depends on the actions or omissions of the child’s parent, guardian, custodian, or caretaker. When a child is harmed by the actions or omissions of someone who is *not* a parent, guardian, custodian, or caretaker, the case may not be within DSS’s jurisdiction and the report may be screened out—that is, not accepted for further assessment or investigation.⁴

3. *Who constitutes a parent, guardian, custodian, or caretaker?*

The terms parent, guardian, and custodian are not further defined in law, but they are commonly understood. A parent is a child’s biological or adoptive parent.⁵ A guardian is someone appointed by a court to have the care, custody, and control of the child, or to arrange for an appropriate placement for the child. A custodian is a person or agency with legal custody of a child.

The term “caretaker” is defined in [G.S. 7B-101\(3\)](#). A caretaker is any person *other than* a parent, guardian, or custodian who is responsible for a child’s health and welfare in a residential setting. The term includes a stepparent, a foster parent, an adult member of a child’s household, an adult who has

³ Child sex trafficking victims are immune from prosecution for the crime of prostitution. When it is discovered that a person suspected of or charged with prostitution is a minor, the minor must be taken into temporary protective custody and reported to DSS by the law enforcement officer who takes the minor into custody. [G.S. 14-204\(c\)](#).

⁴ Some cases that are screened out may be referred to local law enforcement. Under [G.S. 7B-307](#), DSS is required to notify local law enforcement and the district attorney when it receives information that a child may have been physically harmed in violation of any criminal statute by any person other than the parent, guardian, custodian, or caretaker.

⁵ Stepparents are included in the statutory definition of “caretaker.”

been entrusted with the child's care, a potential adoptive parent during a visit or trial placement, people who supervise children in residential child-care facilities or schools (such as cottage parents or house parents), and any employee or volunteer of an institution or school operated by the state Department of Health and Human Services. The term does *not* include child day care providers, school teachers, coaches, club leaders, or others with similar temporary caretaking responsibility for children.

4. *How is a report to DSS made and what must it include?*

A report may be made orally, in person or by telephone, or in writing. A reporter must give the following information (to the extent that he or she has or knows the information):

- Name, address, and age of the child;
- Name and address of the child's parent, guardian, or caretaker;
- Names and ages of other children under age 18 in the same home;
- Present whereabouts of the child if not at the home address;
- Nature and extent of any injury or condition resulting from the abuse, neglect, or dependency; and
- Any other information the reporter believes may be useful in establishing the need for protective services or court intervention.⁶

5. *Does making a report violate HIPAA?*

No. The HIPAA privacy rule specifically permits reports of child abuse or neglect that are made to a governmental entity that is authorized by law to receive the report.⁷ State medical confidentiality laws also specifically allow these reports to be made, even if they involve the disclosure of information that would otherwise be protected by confidentiality laws or provider-patient privileges.⁸ The reporter does not need the permission of the child or the child's parent to make the report.

6. *Can a person be held liable for making a report?*

A person who makes a report in good faith is immune from any liability that might otherwise arise. The reporter's good faith is presumed, which means that the burden of showing bad faith is on the person who wants to hold the reporter liable.⁹

7. *Is there a penalty for failing to make a required report?*

A prosecutor may charge a person with a class 1 misdemeanor if (1) the person knowingly or wantonly fails to make a required report, or (2) the person knowingly or wantonly causes another person to fail to make a required report.¹⁰

⁶ [G.S. 7B-301](#).

⁷ [45 C.F.R. 164.512\(b\)](#).

⁸ Under [G.S. 7B-309](#), a person who makes a report in good faith is immune from liability for breaching confidentiality. [G.S. 7B-310](#) makes clear that the reports must be made, even if the information is otherwise privileged. See also [G.S. 8-53.1](#) (neither the physician-patient privilege nor the nurse-patient privilege are grounds for excluding evidence of child abuse or neglect in court proceedings).

⁹ [G.S. 7B-309](#).

¹⁰ [G.S. 7B-301](#).

PART 2. REPORTS TO LAW ENFORCEMENT

Section A: Reporting Violent Crimes, Certain Sexual Offenses, & Misdemeanor Child Abuse

A person age 18 or older who knows or reasonably should have known that a juvenile (child under age 18) has been or is the victim of a violent offense, sexual offense, or misdemeanor child abuse must make an immediate report to local law enforcement. [G.S. 14-318.6](#).

1. *Who must make a report?*

The general rule is that any adult (person age 18 or older) who knows or reasonably should have known that a juvenile has been or is a victim of a reportable offense must make a report. G.S. 14-318.6(b).

There are a few exceptions for certain individuals who acquire the information in the context of a relationship that is privileged under North Carolina law.¹¹ A person with attorney-client privilege is not required to report. In addition, the following people with statutory privileges are not required to report, if the privilege prevents the report (the statute establishing the privilege is in parentheses):

- Licensed psychologists, licensed psychological associates, their employees and associates (G.S. 8-53.3);
- Social workers licensed or certified under G.S. Ch. 90B and engaged in the delivery of private social work services (G.S. 8-53.7);
- Clinical mental health counselors licensed under G.S. Ch. 90, Art. 24 (G.S. 8-53.8); and
- Employees and agents of rape crisis centers and domestic violence programs, as those terms are defined in the privilege statute (G.S. 8-53.12).

There is no exception to the reporting requirement for doctors, nurses, or other individuals with relationships that are privileged under the physician-patient privilege (G.S. 8-53) or the nurse-patient privilege (G.S. 8-53.13).¹²

2. *When must a report be made?*

The statute requires an immediate report to law enforcement when a juvenile has been or is the victim of a violent offense, a sexual offense, or misdemeanor child abuse, as those terms are defined in the law. For purposes of this law, a “juvenile” is a person under age 18 who is not married, emancipated, or a member of the U.S. armed forces.¹³

a. What constitutes a “violent offense” that must be reported?

The statute defines “violent offense” as an offense that inflicts serious bodily injury or serious physical injury by other than accidental means. “Serious physical injury” means a physical injury that causes great pain and suffering, and the term is defined to include serious mental injury.¹⁴ “Serious bodily injury” is

¹¹ [G.S. 14-318.6\(h\)](#).

¹² Individuals covered by these privilege statutes include physicians, surgeons, physician assistants, nurse practitioners, nurses, and others providing care to patients under the direction and supervision of a physician or surgeon.

¹³ [G.S. 14-318.6\(a\)\(1\)](#). The statute states that, for purposes of the reporting requirement, the age of the juvenile at the time of the abuse or offense governs.

¹⁴ G.S. 14-318.6(a)(3) (incorporating by reference the definition in G.S. 14-318.4(d)).

defined as bodily injury that:

- Creates a substantial risk of death; or
- Causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ; or
- Results in prolonged hospitalization.¹⁵

The definition of violent offense does not specify which criminal offenses must be reported. Rather, it focuses on the type of injury caused by the violent offense. Because the definitions come from other statutes, there is some existing case law interpreting the terms to include injuries such as burns causing permanent disfigurement, head trauma, fractures, and other specific injuries. However, there is unlikely to be a case for every type of injury that a health care provider may encounter. For purposes of the reporting requirement, health care providers should use their professional judgment to determine whether a non-accidental injury satisfies the statutory definitions.

b. What constitutes a “sexual offense” that must be reported?

The statute requires a report when a juvenile has been or is a victim of a “sexual offense,” but does not define that term. Instead, it defines the term “sexually violent offense” as an offense committed against a juvenile that is a sexually violent offense as defined in G.S. 14-208.6(5), including an attempt, solicitation, or conspiracy to commit a sexually violent offense, or aiding and abetting a sexually violent offense.¹⁶

Although there is a difference in the terms used in the reporting requirement (“sexual offense”) and the definitions section (“sexually violent offense”), it seems likely that the intent was to require reporting of the offenses specified in the definition of sexually violent offense. That definition refers to 29 separate statutes (including one former statute) that create the crimes that must be reported. Each statute sets out the specific elements for a particular criminal offense. Many of the statutes are also subject to a body of case law interpreting them. This makes it quite challenging for individuals who are not criminal lawyers to understand what they are required to report. The table in the appendix to this document provides a categorized summary of offenses that are included in the definition of “sexually violent offense.” The table is intended for the sole purpose of making the list of reportable offenses more understandable for mandatory reporters who are not criminal lawyers. Please note that the categories provided in the table are not in the statute, but were created by the author. Further, the brief summaries of the offenses in each category are also the author’s and do not include all elements of the crime that must be reported, but focus instead on matters that may be particularly relevant to non-lawyer reporters, such as the age differences between perpetrators and victims that are sometimes required for an offense to be considered a “sexually violent offense” under this law. For detailed information about a given offense, please consult the cited statutes and the case law.

c. What constitutes “misdemeanor child abuse” that must be reported?

The new law requires individuals to report misdemeanor child abuse as defined in G.S. 14-318.2. In brief, this offense occurs when a parent or other person providing care or supervision to a child under age 16 inflicts physical injury on the child, or allows physical injury to be inflicted, or creates or allows to be created a substantial risk of physical injury by other than accidental means.

¹⁵ G.S. 14-318.6(a)(2) (incorporating by reference the definition in G.S. 14-318.4(d)).

¹⁶ G.S. 14-318.6(4).

3. *How is a report under this statute made, and what should it include?*

When a person knows (or reasonably should know) that a juvenile has been or is a victim of a reportable offense, the person must make an immediate report to an appropriate local law enforcement agency in the county where the victim of the reportable offense resides or is found. The report may be made orally or by telephone.

The report must include the following information as it is known to the reporter:

- Name, address, and age of the juvenile;
- Name and address of the juvenile's parent, guardian, custodian, or caretaker;
- Name, address, and age of the person who committed the offense against the juvenile;
- Location where the offense was committed;
- Names and ages of other juveniles present or in danger;
- The present whereabouts of the juvenile, if not at the home address;
- The nature and extent of any injury or condition resulting from the offense or abuse; and
- Any other information the person making the report believes might be helpful in establishing the need for law enforcement involvement.¹⁷

A person who makes a report must give his or her name, address, and telephone number. The identity of a person who makes a report may be revealed only as provided by G.S. 132-1.4(c)(4), a provision of the North Carolina public records law regarding the identity of 911 callers, which permits calls to be released with voice alteration or in the form of a written transcript.¹⁸

4. *Does making a report violate HIPAA?*

Making a report will require the disclosure of protected health information (PHI). This does not violate HIPAA because the report is required by law, and HIPAA expressly allows disclosures to law enforcement that are required by law. However, reporters who are subject to HIPAA must not disclose more information than the statute requires.¹⁹

5. *Can a person be held liable for making a report?*

A person who acts in good faith in making a report, cooperating with a law enforcement investigation related to a report, or testifying in a judicial proceeding resulting from a report or the ensuing investigation is immune from any civil or criminal liability that might otherwise be incurred under state law.²⁰ The new law cannot provide immunity from liability for violations of federal laws, such as HIPAA or other confidentiality laws. While HIPAA allows the mandatory reports that are required under this law, it imposes

¹⁷ G.S. 14-318.6(b).

¹⁸ G.S. 14-318.6(e).

¹⁹ 45 C.F.R. 164.512(a); (f)(1); (c)(1). 44 45 C.F.R. 164.512(a) generally authorizes disclosures of PHI that are required by law, but expressly requires compliance with the provisions of 164.512(c), (e), or (f), when applicable. 45 C.F.R. 164.512(f)(1) authorizes disclosures to law enforcement that are required by law, including laws requiring reports of wounds or physical injuries, unless the law is subject to the HIPAA provisions that apply to reports about victims of abuse. 45 C.F.R. 164.512(b)(ii) authorizes disclosures to governmental agencies that are authorized by law to receive reports of child abuse or neglect, such as a department of social services. 45 C.F.R. 164.512(c)(1) authorizes disclosures about victims of abuse to a government authority, including a law enforcement agency, when the disclosure is required by law, is limited to the requirements of the law, and is not a report of child abuse or neglect that must be made to a different agency under 164.512(b)(ii).

²⁰ G.S. 14-318.6(f).

some limits and additional requirements that HIPAA-covered entities must comply with when making reports, and it requires additional legal process for disclosures made while cooperating with a law enforcement investigation related to a report or while testifying in a judicial proceeding. Other federal laws may prohibit or inhibit reports or other activities immunized from liability under the state law.

6. Is there a penalty for failing to make a required report?

An adult who willfully or knowingly fails to make a report required by this law is guilty of a class 1 misdemeanor. An adult who willingly or knowingly prevents another person from making a report required by this law is guilty of a class 1 misdemeanor.²¹

Section B: Reporting Disappearance of a Child Under Age 16 (Caylee’s Law)

The disappearance of a child under the age of 16 must be reported to law enforcement. The parent or other person responsible for providing care or supervision of the child must make the report within 24 hours of the disappearance. In addition, any person who reasonably suspects that a child has disappeared and is in danger must make a report within a reasonable time. [G.S. 14-318.5](#).

1. Who must make a report?

A parent or other person who is responsible for providing care or supervision for a child under the age of 16 must report the child’s disappearance to law enforcement. Other persons are required to report to law enforcement only when they reasonably suspect that a child has disappeared and may be in danger.

2. When must a report be made?

A report is triggered by a child’s disappearance. The term “disappearance of a child” is defined in the law as “[w]hen the parent or other person providing supervision of a child does not know the location of the child and has not had contact with the child for a 24-hour period.”

A person who is not the parent or person responsible for the child’s supervision must report to law enforcement when two conditions are met. First, the person must reasonably suspect the child has disappeared according to the law’s definition—that is, the person must reasonably suspect that the parent or other person responsible for the child’s supervision does not know where the child is and has not had contact with the child for 24 hours. Second, the person must reasonably suspect that the child is in danger. When these conditions are met, the report to law enforcement must be made within “a reasonable time.”²²

3. How is a report made and what must it include?

The law does not specify how the report must be made, to which law enforcement agency it must be made, or what it must include. Given the urgency of the circumstances leading to such reports, an oral report by telephone to a local law enforcement agency may be the wisest course. When the report is

²¹ G.S. 14-318.6(c).

²² [G.S. 14-318.5\(c\)](#). This provision does not require teachers to report a child’s absence from school, so long as the absence is properly reported under the usual school laws and procedures. [G.S. 14-318.5\(e\)](#).

made by someone other than a parent or person responsible for the child's supervision, the report probably should include the child's name, age if known (or a statement of belief that the child is under age 16 if not known), address if known, and the reasons for suspecting the child has disappeared and is in danger. Remember that the "disappearance" means that the parent or other person in charge of supervising the child does not know where the child is and has not had contact with the child for at least 24 hours.

4. Does making a report violate HIPAA?

Any report made by a health care provider under this law will almost certainly require the disclosure of protected health information (PHI). The HIPAA Privacy Rule specifically permits disclosures of PHI that are required by law.²³ Reports under this law are required, so the disclosure of information is permitted so long as it is limited to what is required by the law compelling the report. As the previous question notes, the law does not specify the contents of the report, but I believe the information outlined in the answer to the previous question is the amount that would be necessary to fulfill the duty to make the required report.²⁴ State laws also expressly permit the disclosure of protected health information to law enforcement when the disclosure is allowed by HIPAA.²⁵ The reporter does not need the permission of the child or the child's parent to make the report.

5. Can a person be held liable for making a report?

A person who makes a report in good faith is immune from any liability that might otherwise arise. The reporter's good faith is presumed, which means that the burden of showing bad faith is on the person who wants to hold the reporter liable.²⁶

6. Is there a penalty for failing to make a required report?

If a parent or other person who is responsible for a child's supervision knowingly or wantonly fails to report the child's disappearance, the parent/other responsible person may be charged with a Class I felony.²⁷ If a person who is not the child's parent or other person responsible for the child's supervision fails to report his or her reasonable suspicion that the child has disappeared and is in danger, the person may be charged with a class 1 misdemeanor.²⁸

A health care provider who concludes that a report is required under this new section almost certainly needs to make a report to DSS as well. If there is reasonable cause to suspect a child has disappeared and is in danger, then there probably is also cause to suspect the child is a neglected juvenile as that

²³ [45 C.F.R. 164.512\(a\)](#) (disclosures that are required by law generally); [164.512\(f\)\(1\)](#) (disclosures to law enforcement that are required by law).

²⁴ A law enforcement officer may request additional information after receiving such a report. If and when an officer specifically inquires about the child as a missing person, the following information may be released: name, address, date and place of birth, social security number, ABO blood type and rh factor, type of injury (if applicable), date and time of treatment, date and time of death (if applicable), and distinguishing physical characteristics, including height, weight, sex, race, hair color, eye color, and the presence or absence of facial hair, scars, and tattoos. [45 C.F.R. 164.512\(f\)\(2\)](#); [G.S. 90-21.20B\(a\)](#).

²⁵ [G.S. 90-21.20B\(a\)](#); [G.S. 8-53.1](#).

²⁶ [G.S. 14-318.5\(g\)](#).

²⁷ [G.S. 14-318.5\(b\)](#).

²⁸ [G.S. 14-318.5\(c\)](#).

term is defined by state law.²⁹

Section C: Reporting Serious Non-Accidental Harm to a Child

A physician or administrator of a health care facility must make a report to local law enforcement authorities when a patient under the age of 18 is treated for a recurrent illness or serious physical injury that appears to be due to non-accidental trauma.

[G.S. 90-21.20\(a\); \(c1\)](#).

1. *Who must make a report?*

This law gives the duty to make reports to physicians and administrators of health care facilities, and the duty to report applies only to individuals that the physician or facility treats as patients. If a person in a health care facility who is not a physician or administrator becomes aware that a patient has one of the injuries or illnesses that must be reported (see next question), he or she should notify the supervising physician or the facility administrator so that the required report can be made.

2. *When must a report be made?*

A report must be made when a child under the age of 18 has a recurrent illness or serious physical injury that, in the physician's professional judgment, is the result of non-accidental trauma. The report must be made "as soon as it becomes practicable before, during, or after completion of treatment." The law specifies that the report to law enforcement must be made *in addition to* any report that is made to DSS. In other words, a report to DSS alone does not suffice—the physician or facility administrator must also report to local law enforcement.

3. *How is a report made and what must it include?*

Reports must be made to the local law enforcement agency responsible for the location where the facility is located. The law specifies that the report should be made to municipal police officials if the facility is in a municipality. If the facility is not in a municipality the report should be made to the county sheriff's office. The law does not specify how reports should be made, but given the speed with which reports are required—as soon as practicable before, during or after treatment—an oral report by telephone is probably the wisest course of action.

The law is not entirely clear about exactly what must be reported, but I believe it would be reasonable for the report to include the following information: The child's name, age, sex, race, residence, or present location (if known), and the character and extent of the child's serious physical injury or recurrent illness.³⁰

²⁹ [G.S. 7B-101](#), see also pages 1-2 of this handout.

³⁰ This is the information that must be reported when a report is made under this same statute pursuant to subsection (b) (regarding gunshot wounds or other injuries or illness associated with criminal violence). It seems reasonable to conclude that the same information should be included for a report made pursuant to subsection (c1).

4. *Does making a report violate HIPAA?*

Any report made under this law will require the disclosure of protected health information (PHI). The HIPAA Privacy Rule specifically permits disclosures of PHI that are required by law.³¹ Reports under this law are required, so the disclosure of information is permitted so long as it is limited to what is required by the law compelling the report. State laws also expressly permit the disclosure of PHI to law enforcement when the disclosure is allowed by HIPAA.³² The reporter does not need the permission of the child or the child's parent to make the report.

5. *Can a person be held liable for making a report?*

A physician or health care facility administrator who makes a report in good faith is immune from any liability that might otherwise arise.³³

6. *Is there a penalty for failing to make a required report?*

This reporting law does not provide a penalty for failing to make a required report. It is nevertheless possible that liability for failing to report could arise, depending on the circumstances.

Section D: Reporting Gunshot Wounds and Other Bodily Harm Caused by Criminal Violence

A physician or administrator of a health care facility must make a report to local law enforcement authorities when a patient of any age is treated for certain injuries or illnesses that may have been caused by criminal acts. [G.S. 90-21.20\(a\); \(b\)](#).

1. *Who must make a report?*

This law gives the duty to make reports to physicians and administrators of health care facilities, and the duty to report applies only to individuals that the physician or facility treats as patients. If a person in a health care facility who is not a physician or administrator becomes aware that a patient has one of the injuries or illnesses that must be reported (see next question), he or she should notify the supervising physician or the facility administrator so that the required report can be made.

2. *When must a report be made?*

A report must be made to local law enforcement when a patient of any age has any of the following wounds, injuries, or illnesses:

- Gunshot wound or any other injury caused or apparently caused by a firearm;
- Illness caused by poisoning;
- A wound or injury caused or apparently caused by a knife or sharp instrument, if it appears to the treating physician that a criminal act was involved; or

³¹ [45 C.F.R. 164.512\(a\)](#) (disclosures that are required by law generally); [164.512\(f\)\(1\)](#) (disclosures to law enforcement that are required by law).

³² [G.S. 90-21.20B\(a\)](#); [G.S. 8-53.1](#).

³³ [G.S. 90-21.20\(d\)](#).

- A wound, injury or illness causing grave bodily harm or grave illness, if it appears to the treating physician that the wound, injury, or illness was caused by a criminal act of violence/

The report must be made “as soon as it becomes practicable before, during, or after completion of treatment.”

3. How is a report made and what must it include?

Reports must be made to the local law enforcement agency responsible for the location where the facility is located. The law specifies that the report should be made to municipal police officials if the facility is in a municipality. If the facility is not in a municipality the report should be made to the county sheriff’s office. The law does not specify how reports should be made but given the speed with which reports are required—as soon as practicable before, during or after treatment—an oral report by telephone is probably the wisest course of action.

The report must include all of the following information that is known: the patient’s name, age, sex, race, residence or present location, and the character and extent of the patient’s illness or injuries.³⁴

4. Does making a report violate HIPAA?

Any report made under this law will require the disclosure of protected health information (PHI). The HIPAA Privacy Rule specifically permits disclosures of PHI that are required by law.³⁵ Reports under this law are required, so the disclosure of information is permitted so long as it is limited to what is required by the law compelling the report. State laws also expressly permit the disclosure of protected health information to law enforcement when the disclosure is allowed by HIPAA.³⁶ The reporter does not need the permission of individual or the individual’s personal representative to make the report.

5. Can a person be held liable for making a report?

A physician or health care facility administrator who makes a report in good faith is immune from any liability that might otherwise arise.³⁷

6. Is there a penalty for failing to make a required report?

This reporting law does not provide a penalty for failing to make a required report. It is nevertheless possible that liability for failing to report could arise, depending on the circumstances.

³⁴ [G.S. 90-21.20\(c\)](#).

³⁵ [45 C.F.R. 164.512\(a\)](#) (disclosures that are required by law generally); [164.512\(f\)\(1\)](#) (disclosures to law enforcement that are required by law).

³⁶ [G.S. 90-21.20B\(a\)](#); [G.S. 8-53.1](#).

³⁷ [G.S. 90-21.20\(d\)](#).

APPENDIX: SEXUALLY VIOLENT OFFENSES UNDER G.S. 14-318.6

Please read:

The following table categorizes and summarizes the offenses that constitute a “sexually violent offense” under G.S. 14-318.6, the law that requires a report to law enforcement when a person knows, or reasonably should know, that a juvenile has been or is the victim of a violent offense, a sexual offense, or misdemeanor child abuse.

The table was created solely for the purpose of assisting mandatory reporters in understanding generally what constitutes a sexually violent offense under the law. It is not a comprehensive treatment of the offenses listed.

The table categorizes the offenses rather than simply repeating the list in the statute. Readers should be aware that the categories provided are not in the statute, but were created by the author. Further, the brief summaries of the offenses in each category do not include all elements of the crime that must be reported, but focus instead on matters that may be particularly relevant to mandatory reporters in health departments, such as age differences between perpetrators and victims that may be required for an offense to be reportable, or the nature of the relationship between the perpetrator and victim when that is relevant to the offense.

To fully understand the sexual offenses that must be reported, please consult the cited statutes and the case law.

Sexually violent offenses, as defined by G.S. 14-208.6(5) and 14-318.6(a)(4)

Forcible rape and sexual offenses	
First- and second-degree forcible rape	G.S. 14-27.21; 14-27.22
First- and second-degree forcible sexual offense	G.S. 14-27.26, 14-27.27
Sexual battery	G.S. 14-27.23
Attempted rape or sexual offense as defined under former law	Former G.S. 14-27.6
Statutory offenses	
Statutory rape: victim under 13, perpetrator at least 4 years older	G.S. 14-27.23; 14-27.24
Statutory rape: victim ages 13-15, perpetrator at least 6 years older*	G.S. 14-27.25(a)
Statutory sexual offense: victim under 13, perpetrator at least 4 years older	G.S. 14-27.28; 14-27.29
Statutory sexual offense: victim ages 13-15, perpetrator at least 6 years older*	G.S. 14-27.30(a)
Offenses committed by a parents/parent substitutes or other relatives	
Sexual activity with a person under 18 by a substitute parent or custodian	G.S. 14-27.31
Incest (carnal relations with a person's biological or adoptive child, stepchild, grandchild, nephew, niece, sibling, half-sibling, parent, grandparent, uncle, or aunt)	G.S. 14-178
Parent or guardian commits a sexual act on a juvenile under age 16, or allows a sexual act to be committed on a juvenile under age 16	G.S. 14-318.4(a2)
Offenses committed by teachers or other school personnel	
Sexual activity with a student by a teacher, school administrator, student teacher, school safety officer, coach, or other school personnel	G.S. 14-27.32
Indecent liberties with a student by a teacher, school administrator, student teacher, school safety officer, or coach who is at least 4 years older	G.S. 14-202.4(a)
Trafficking /offenses related to prostitution**	
Human trafficking	G.S. 14-43.11
Subjecting or maintaining a person for sexual servitude	G.S. 14-43.13
Patronizing a prostitute who is a minor or has a mental disability	G.S. 14-205.2(c) & (d)
Promoting the prostitution of a minor or person with a mental disability	G.S. 14-205.3(b)
Parent or caretaker commits or permits an act of prostitution with or by a juvenile	G.S. 14-318.4(a1)
Offenses related to pornography/dissemination of obscene materials	
Employing or permitting a minor to assist in offenses against public morality and decency (includes preparing & disseminating obscene materials)	G.S. 14-190.6
First-, second-, and third-degree sexual exploitation of a minor (using, inducing, coercing, encouraging, or facilitating a minor under age 18 to engage in sexual activity for the purpose of producing pornography; creating, duplicating, or distributing such materials; or possessing child pornography)	G.S. 14-190.16, 14-190.17, 14-190.17A
Other offenses against children	
Felonious indecent exposure (victim under 16, perpetrator 18 or older)	G.S. 14-190.9(a1)
Indecent liberties with a child under 16 by a person 5 or more years older	G.S. 14-202.1
Using a computer or other electronic device to solicit a child to commit an unlawful sex act	G.S. 14-202.3

* The statutes that establish statutory offenses for adolescents in the 13-15 age group actually apply to any person aged 15 or younger. Under the new reporting law, those offenses are reportable only if there is a 6-year age difference between victim and perpetrator. However, if the victim is under age 13, the underlying offense could also be first-degree statutory rape or sexual offense, or statutory rape or sexual offense of a child by an adult (G.S. 14-27.23; 14-27.28), and those offenses are reportable if there is a 4-year age difference. I have separated out 13-15-year-olds for purposes of explaining when a report is required, even though the underlying offenses are not limited to those ages.

** Minors are no longer prosecuted for the offense of prostitution but are considered to be trafficking victims if they are engaged in acts of prostitution.