

## Overview

[Minnesota Statutes, chapter 260E](#), commonly referred to as the Minnesota Maltreatment of Minors Act, establishes a system for reporting possible child maltreatment to government agencies that provide protective services for the child or conduct criminal investigations. The act also governs agency responses to reports and access to information generated under the act. Some of the system’s features are determined by federal requirements that the state must satisfy in order to qualify for federal child abuse prevention and treatment grants.

This brief provides an overview of the reporting of maltreatment of minors, recodified in 2020 as Minnesota Statutes, chapter 260E, and related law and rules, with changes effective through the 2022 regular legislative session.

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# The Reporter

## Who is *permitted* to report child maltreatment?

Anyone who knows, has reason to believe, or suspects that a child is being, or has been maltreated. [Minn. Stat. § 260E.06](#), subd. 2.

## Who is *required* to report child maltreatment?

An individual who knows or has reason to believe a child is being or has within the past three years been maltreated, and who is one of the following:

- 1) a professional or the professional's delegate who is engaged in
  - the healing arts
  - social services, including employee assistance counseling, guardian ad litem, and parenting time expeditor
  - hospital administration
  - psychological or psychiatric treatment
  - child care
  - education
  - law enforcement
  - correctional supervision
  - probation and correctional services
- 2) a member of the clergy who receives the information while engaged in ministerial duties, excluding information exempt under the confessional privilege

[Minn. Stat. § 260E.06](#), subd. 1.

A parent, guardian, or caretaker who knows or reasonably should know a child's health is in serious danger must report. These individuals are subject to criminal penalties for failing to report if the child suffers substantial or great bodily harm or dies for lack of medical care. The criminal law that permits reliance on spiritual means or prayer for health care does not eliminate this reporting duty. [Minn. Stat. § 260E.08](#).

Beginning June 1, 2023, a supervisor or an employee<sup>1</sup> of a private or public youth recreation program must immediately report if:

- 1) the employee or supervisor knows or has reason to believe that another employee or supervisor is abusing or has abused a child within the preceding three years; or
- 2) a child discloses abuse within the preceding three years to the employee or supervisor.

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<sup>1</sup> An "employee" is defined as "a person who is 18 years of age or older who performs services for hire for an employer and has full-time, part-time, or short-term responsibilities for the care of the child including but not limited to day care, counseling, teaching, and coaching." An employee for purposes of the section does not include an independent contractor or volunteer. [Minn. Stat. § 260E.055](#), subd. 1, para. (d).

[Minn. Stat. § 260E.055.](#)

## **What are an employer’s obligations to an employee who reports maltreatment?**

The employer may not retaliate against an employee who is required to report and does so in good faith. Examples of presumed retaliation are provided in the act. The employee may recover actual damages and an additional penalty up to \$10,000. [Minn. Stat. § 260E.07.](#)

## **What is the penalty for failing to make a required report?**

Failing to make a required report is a crime exclusively prosecuted by the county attorney. [Minn. Stat. §§ 260E.08; 388.051](#), subd. 2, para. (c).

## **What are the consequences of making a false report?**

An individual who makes a false report in good faith is immune from civil or criminal liability. [Minn. Stat. § 260E.34.](#) An individual who knowingly or recklessly makes a false report is liable in a civil suit for actual and punitive damages, costs, and reasonable attorney fees. [Minn. Stat. § 260E.08.](#)

# **Reportable Maltreatment**

## **Whose maltreatment is reportable under the act?**

**Person Responsible for the Child’s Care.** A “person responsible for the child’s care” includes the following:

- parent
- guardian
- other person in the family unit with care responsibilities
- teacher
- school administrator
- school employee or agent
- day care provider
- paid or unpaid babysitter
- counselor
- coach

[Minn. Stat. § 260E.03](#), subd. 17.

**Supervisor or employee of a private or public youth recreation program.** Beginning June 1, 2023, abuse perpetrated by a supervisor or employee of a private or public youth recreation program is also reportable.

[Minn. Stat. § 260E.055](#), subd. 2.

**Person in a Current or Recent Position of Authority.** A “person in a current or recent position of authority” is a parent or someone acting in a parent’s place, including a psychotherapist, who has responsibility for the health, welfare, or supervision of a child for any period of time, however brief, within 120 days immediately preceding the alleged maltreatment. [Minn. Stat. §§ 260E.03](#), subd. 16; [609.341](#), subd. 10.

“Persons in a current or recent position of authority” are covered by the act if they commit sexual abuse. [Minn. Stat. § 260E.03](#), subd. 20.

**Person with a Significant Relationship to the Child.** A person who has a significant relationship to the child is someone who has that relationship because of being a relative or stepparent, or because of intermittently or regularly residing in the child’s home. [Minn. Stat. §§ 260E.03](#), subd. 21; [609.341](#), subd. 15.

This group of individuals is covered by the act if they commit sexual abuse. [Minn. Stat. § 260E.03](#), subd. 20.

## What is “maltreatment” under the act?

Any of the following acts or omissions:

- egregious harm
- neglect
- physical abuse
- sexual abuse
- substantial child endangerment
- threatened injury
- mental injury
- maltreatment of a child in a facility

[Minn. Stat. § 260E.03](#), subd. 13.

**Physical Abuse.** Physical abuse or threatened physical abuse includes the following:

- physical injury, mental injury,<sup>2</sup> or threatened injury<sup>3</sup> inflicted by a person responsible for the child's care on a child other than by accident
- physical or mental injury not reasonably explained by the child’s history of injuries

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<sup>2</sup> “Mental injury” means injury to a child’s psychological capacity or emotional stability, evidenced by observable or substantial impairment in the child’s ability to function within normal performance and behavior ranges for the child’s culture. [Minn. Stat. § 260E.03](#), subd. 13.

<sup>3</sup> “Threatened injury” means a statement, overt act, condition, or status that represents a substantial risk of abuse or injury of a child. The statute lists four examples of threatened injury. [Minn. Stat. § 260E.03](#), subd. 23.

- aversive or deprivation procedures (e.g., electric shock) not authorized by Department of Human Services rules
- regulated interventions (e.g., time out) not authorized by Department of Education rules

Excluded from this definition is reasonable and moderate discipline by a parent or guardian or use of reasonable force by a teacher, principal, or school employee.<sup>4</sup> [Minn. Stat. § 260E.03](#), subd. 18.

**Sexual Abuse.** Sexual abuse or threatened sexual abuse includes the following:

- soliciting a child to practice prostitution
- criminal sexual conduct
- receiving profit derived from prostitution by a child
- hiring or agreeing to hire a child as a prostitute
- using a minor in a sexual performance or pornographic work
- child sex trafficking

Sexual abuse includes threatened sexual abuse. A threat of sexual abuse is considered to exist when a child lives in a household in which a parent or household member is registered or required to register as a predatory offender. [Minn. Stat. § 260E.03](#), subd. 20.

**Neglect.** Neglect includes the following:

- failure to supply necessary food, clothing, shelter, medical care, or other care required for the child's mental and physical health when reasonably able to do so
- failure to protect a child from serious danger to physical or mental health when reasonably able to do so, including a growth delay, referred to as failure to thrive
- failure to provide necessary supervision or appropriate child care
- chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the child's care that adversely affects the child's basic needs and safety
- emotional harm demonstrated by a substantial and observable effect on the child
- medical neglect
- prenatal exposure to specified controlled substances<sup>5</sup>
- failure to ensure that a child is educated in accordance with state law

[Minn. Stat. § 260E.03](#), subd. 15.

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<sup>4</sup> The statute lists 11 kinds of actions that are not reasonable and moderate discipline.

<sup>5</sup> Reporting, assessment, toxicology testing, and services to women using prohibited controlled substances is governed by [Minnesota Statutes, sections 260E.31](#) and [260E.32](#).

For purposes of mandatory reporting by a supervisor or employee of a private or public youth recreation program, **abuse** includes egregious harm, physical abuse, sexual abuse, substantial child endangerment, or threatened injury.<sup>6</sup> [Minn. Stat. § 260E.055](#), subd. 2.

## What else must be reported under the act?

A mandated reporter must report to law enforcement kidnapping or actions that deprive a parent of custodial or parenting time rights. This report does not trigger a local welfare agency assessment. [Minn. Stat. § 260E.11](#), subd. 2.

## Creation of Reports

### Where can a maltreatment report be made?

In most cases a person may report to either the police, the county sheriff, the tribal police department, the local welfare agency, the agency responsible for assessing or investigating the report, or the tribal social services agency. [Minn. Stat. § 260E.06](#), subd. 1.

Exceptions:

- If a person required to report believes a child died because of maltreatment, the report must be made to the medical examiner or coroner. [Minn. Stat. § 260E.11](#), subd. 3.
- If maltreatment occurred in a licensed facility (child care, foster care, etc.), a person required to report must report to the agency that licenses the facility. [Minn. Stat. § 260E.11](#), subd. 1.
- If a board or licensing entity whose licensees work in a school receives a complaint of maltreatment that has occurred in a school, the board or licensing entity must make a report to the Commissioner of Education. [Minn. Stat. § 260E.06](#), subd. 4.

### How is a report made?

The initial report may be oral, made by telephone or other means. If the person is a mandated reporter under the act, an oral report must be followed by a written report to the appropriate agency within 72 hours, exclusive of weekends and holidays. [Minn. Stat. § 260E.09](#).

### What must be included in the report?

The report must contain sufficient content to identify:

- the child
- the person believed responsible for the maltreatment, if known
- the nature and extent of the maltreatment

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<sup>6</sup> Maltreatment reporting requirements discussed subsequently in this publication also apply to reports of abuse made by private or public youth recreation program supervisors or employees.

- the reporter's name and address

[Minn. Stat. § 260E.09.](#)

## Investigation or Assessment of Reports

### What is the potential legal liability of individuals involved in child maltreatment cases?

If action is taken in good faith, the act provides immunity from civil or criminal liability for the following:

- a voluntary or mandated reporter
- any person who assists in a case assessment
- any person who has employment responsibilities for performing duties related to investigations or assessments
- a school or licensed facility and its employees when permitting access for interviews and helping with an investigation or assessment
- a person performing duties under the chapter or the supervisor of such a person
- a physician or other medical personnel administering a toxicology test under the chapter to determine the presence of a controlled substance in a pregnant or immediately postpartum woman, or in a newborn child

[Minn. Stat. § 260E.34.](#)

### How are reports of maltreatment in the home handled?

When the local welfare agency receives a report, the agency screens the report within 24 hours to determine whether the report meets certain guidelines and requirements. A report meeting the requirements is screened in and assigned for one of two responses: **investigation** or **family assessment**. If the report alleges substantial child endangerment or sexual abuse, the agency must conduct an investigation. The agency conducts a family assessment when a report does not allege substantial endangerment or sexual abuse. [Minn. Stat. § 260E.17](#). The local welfare agency may use a screened out report to offer social services to the family. [Minn. Stat. § 260E.21](#), subd. 2.

After conducting a **family assessment**, the local welfare agency determines whether the family needs services to address the child's safety and the risk of future maltreatment. [Minn. Stat. § 260E.24](#), subd. 2. After conducting a **family investigation**, the local welfare agency determines (1) whether there was maltreatment, and (2) whether child protective services are needed. [Minn. Stat. § 260E.24](#), subd. 3.

A determination that child protective services are needed results when the local welfare agency documents conditions sufficient to cause a child protection worker to conclude that there is significant risk of maltreatment, and persons responsible for the child's care are not likely to protect the child from maltreatment. [Minn. Stat. § 260E.24](#), subd. 4. When necessary, the local

welfare agency must seek authority to remove the child from the home. [Minn. Stat. § 260E.20](#), subd. 1.

If alleged maltreatment results in the death of a child, the local welfare agency may rely on the law enforcement investigation to determine whether maltreatment occurred. [Minn. Stat. § 260E.20](#), subd. 1.

In cases alleging violation of a criminal statute involving maltreatment or child endangerment, the local welfare agency and local law enforcement must coordinate their respective investigation and assessment efforts to avoid duplicate fact-finding and multiple interviews. [Minn. Stat. §§ 260E.14](#), subd. 5; [260E.20](#), subd. 1. The local welfare or law enforcement agency may interview the alleged victim and other children residing with the alleged offender without parental consent, and outside the parent or alleged offender's presence. For family assessments, it is the preferred practice to request parental permission to interview the child, unless this would compromise the safety assessment. [Minn. Stat. § 260E.22](#), subd. 1.

## How are reports of maltreatment in facilities and schools handled?

The **local welfare agency** must investigate reports of maltreatment in child foster care, family child care, legally nonlicensed child care, and reports involving children who receive services from an unlicensed personal care provider organization.

The **Department of Human Services** screens and investigates allegations of maltreatment in certain juvenile correctional facilities and in facilities licensed or certified under [chapters 245A](#), [245D](#), and [245H](#), other than child foster care and family child care.

The **Department of Health** screens and investigates allegations of maltreatment in facilities licensed under [sections 144.50](#) to [144.58](#) and [144A.43](#) to [144A.482](#) or [chapter 144H](#).

The **Department of Education** screens and investigates allegations of maltreatment in schools, including allegations of maltreatment involving students 18 to 21 years of age, up to and including graduation and the issuance of a diploma. [Minn. Stat. § 260E.14](#), subd. 1.

For alleged maltreatment in a facility, the applicable agency must immediately conduct an **investigation** if a report alleges that a child is the victim of maltreatment in a facility by an individual in that facility within the past three years – a family assessment is only available for alleged maltreatment occurring in the child's home. [Minn. Stat. § 260E.28](#).

## How are reports of maltreatment in other settings handled?

If maltreatment is alleged in other settings, the local welfare agency may rely on the fact-finding efforts of a law enforcement investigation. If law enforcement determines the child is the victim of a crime, the law enforcement agency must immediately notify the local welfare agency that will offer social services if appropriate. [Minn. Stat. §§ 260E.12](#), subd. 1; [260E.14](#), subd. 5.

When a child is identified as a victim of sex trafficking, the local welfare agency is responsible for conducting an investigation. [Minn. Stat. § 260E.14](#), subd. 2.

## **What is the role of the multidisciplinary child protection team?**

A county forms a multidisciplinary child protection team that may consist of the director of the local welfare agency or designees, county attorney or designees, county sheriff or designees, representatives of health, education, and mental health, or similar human services or community-based agencies, and parent groups. The team may provide a wide range of services, including education, prevention, intervention, and treatment. A committee or subcommittee of the team may provide case consultation, a review process resulting in recommendations about services for an identified child and family, to the local welfare agency. [Minn. Stat. § 260E.02](#).

## **What are the requirements for investigations and family assessments?**

The act provides various protocols for investigations and assessments. It requires the local welfare agency to collect information relevant to the family assessment or investigation, and lists information the local welfare agency or agency responsible for investigating the report should collect. [Minn. Stat. § 260E.20](#), subd. 3.

### **Interviews**

When the local welfare agency receives a report, the agency must conduct a face-to-face contact with the child alleged to have been maltreated and with the child's primary caregiver, in order to complete a safety assessment. The local welfare agency is not required to provide notice before conducting the initial face-to-face contact, when possible and when the report alleges substantial child endangerment or sexual abuse. The face-to-face contact must occur immediately if a report alleges sexual abuse or substantial child endangerment, and within five calendar days for all other reports.<sup>7</sup> The agency must also conduct a face-to-face interview with the alleged offender early in the family assessment or investigation. [Minn. Stat. § 260E.20](#), subd. 2.

For any maltreatment report, the local welfare agency or agency responsible for investigating has the authority to interview the child, the persons responsible for the child's care, the alleged offender, and any other person with knowledge of the maltreatment. [Minn. Stat. § 260E.22](#), subd. 1.<sup>8</sup>

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<sup>7</sup> [Minnesota Statutes, section 260E.20](#), subdivision 2, paragraph (b), allows immediate face-to-face contact to be postponed for up to five calendar days if the child is residing in a location that restricts contact with the alleged offender, or if the local welfare agency is pursuing a court order for the child's caregiver to produce the child for questioning.

<sup>8</sup> [Minnesota Statutes, section 260E.22](#), as amended by [Laws 2022, chapter 98](#), article 8, section 31, provides more detail on interview requirements and procedures.

## Investigations in Facilities or Schools

The agency responsible for investigating a report of maltreatment in a facility must notify the child's parent, guardian, or legal custodian before interviewing the child. If reasonable efforts to reach the child's parent, guardian, or legal custodian fail, and it is necessary to interview the child to protect other children in the facility, the agency must notify the child's parent, guardian, or legal custodian as soon as possible after the interview. [Minn. Stat. § 260E.28](#), subd. 2.

The agency responsible for investigating a report of maltreatment in a facility, and other relevant agencies, have the right to enter a facility and inspect and copy the facility's records, as part of an investigation. The agency must obtain access to reports and investigative data relevant to the report of maltreatment. [Minn. Stat. § 260E.28](#), subds. 3 and 4.

## Determinations

### What are the possible determinations for family assessments and investigations?

The local welfare agency must conclude a family assessment or investigation within 45 days of receiving a report alleging maltreatment, although this may be extended under certain circumstances. [Minn. Stat. § 260E.24](#), subd. 1.

A determination that child protective services are needed after a family assessment or investigation must be based on documented conditions sufficient to cause the child protection worker to conclude that the child is at significant risk of maltreatment if protective intervention is not provided and that the child's parent, guardian, or legal custodian has not taken, or are not likely to take, actions to protect the child. [Minn. Stat. § 260E.24](#), subd. 4.

After the agency conducts a family assessment, the agency must determine whether child protective services are needed to address the safety of the child or other family members, and the risk of future maltreatment. The agency must document the information collected as part of the family assessment in the child's or family's case notes. [Minn. Stat. § 260E.24](#), subd. 2, as amended by [Laws 2022, chapter 98](#), article 8, section 32.

Within ten working days after the family assessment concludes, the local welfare agency must notify the child's parent, guardian, or legal custodian of the need for services to address safety concerns or risk of future maltreatment. The agency may also come to an agreement with the family regarding family support and preservation services. [Minn. Stat. § 260E.24](#), subd. 6.

At the end of a family investigation, the agency must determine: (1) whether maltreatment occurred; and (2) whether child protective services are needed. The act authorizes the agency responsible for investigating a report to make an early determination of no maltreatment and close the case if there is no basis for further investigation. [Minn. Stat. § 260E.24](#), subd. 3.

Within ten working days after an investigation concludes, the agency must notify the child's parent, guardian, or legal custodian and the person determined to be maltreating the child of

the agency's determination and a summary of the reasons for the determination. [Minn. Stat. § 260E.24](#), subd. 5.

## What are the possible determinations for facility and school investigations?

For an **investigation involving a school**, the Department of Education determines whether maltreatment occurred and what corrective or protective action was taken by the school. If the department determines that maltreatment occurred, the department must report the determination of maltreatment and any corrective or protective action taken to the alleged offender's employer, the school board, and any appropriate licensing entity. If maltreatment is not determined, the department must inform the school board or employer of that determination, with additional required information. [Minn. Stat. § 260E.30](#), subd. 1.

For an **investigation involving a facility**, if the investigating agency determines that maltreatment occurred, the agency must also determine whether the facility or the alleged offender, or both, were responsible for the maltreatment, based on a preponderance of the evidence, and using mitigating factors listed in statute. The operator, employee, or volunteer who intentionally maltreats a child in a facility or knowingly permits conditions resulting in maltreatment may also be charged with criminal violations. [Minn. Stat. § 260E.30](#), subd. 2.

The Department of Human Services may determine that an individual made a nonmaltreatment mistake, if the incident occurred in a child care setting under circumstances specified in statute. [Minn. Stat. § 260E.30](#), subd. 3.

## Is there an appeal process?

There is no right to appeal in family assessment cases because there is no determination of maltreatment to appeal. An interested person acting on behalf of the child,<sup>9</sup> or an individual or facility determined to have maltreated a child, may ask for reconsideration of an investigating agency's final maltreatment determination in an investigation. A request for reconsideration must be submitted to the investigating agency in writing within 15 days after receipt of the final determination regarding maltreatment. [Minn. Stat. § 260E.33](#), subd. 2.

If the investigating agency denies or does not act upon the request for reconsideration within 15 working days after receiving the request, the person or facility making the request may submit a written request for a fair hearing to the Department of Human Services or Department of Education. The department must hold a hearing and reach a decision within 90 days after receiving the hearing request, with an extension for as many days as either party asks to have the hearing postponed. [Minn. Stat. § 260E.33](#), subd. 3.

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<sup>9</sup> An "interested person acting on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult sibling, stepbrother, or stepsister; or adult aunt or uncle. The perpetrator of maltreatment cannot be an "interested person" under the act. [Minn. Stat. § 260E.03](#), subd. 10.

If the investigating agency changes its determination after reconsideration or fair hearing, it must notify the parties who received notice of the original determination. [Minn. Stat. § 260E.33](#), subd. 4.

If an individual has a license denied or receives a licensing sanction under human services licensing statutes as a result of a maltreatment determination or disqualification, the individual has the right to a contested case hearing regarding the license denial or sanction. When a contested case hearing occurs under these circumstances, the administrative law judge must notify the parent, legal custodian, or guardian of the child who is the subject of the underlying maltreatment determination, and allow the parent, legal custodian, or guardian to file a written statement with the administrative law judge. [Minn. Stat. § 260E.33](#), subd. 6, 6a.

## Access to Data and Reports

### What law controls access to maltreatment reports?

The classification of law enforcement records on maltreatment, other than the report itself, is found in the Data Practices Act. [Minn. Stat. § 13.82](#), subds. 9, 8, and 14. [Section 260E.35](#) governs the classification of maltreatment records and access to those records when held by the local welfare agency or the agency responsible for investigating a maltreatment report. In all cases, reports are to be collected and maintained according to standards in the Data Practices Act (accuracy, security of files, etc.).

### How are maltreatment reports shared among government agencies?

**Police or Sheriff.** If a report is filed with the police or sheriff, the police department or county sheriff must immediately, or within 24 hours, notify the local welfare agency orally and forward a copy of the report to the local welfare agency or agency responsible for investigating the report. [Minn. Stat. § 260E.12](#), subd. 1. The report must be maintained by both agencies as private data.<sup>10</sup>

**Local Welfare Agency.** If a report is filed with the local welfare agency or agency responsible for investigating the report, the agency must immediately, or within 24 hours, notify the local police department or county sheriff orally and forward a copy of the report. [Minn. Stat. § 260E.12](#), subd. 2. The report must be maintained by both agencies as private data.

If a report involves a child who is a mental health or developmental disabilities client, and who has been the subject of alleged maltreatment at an agency, facility, or program, the local welfare agency must also immediately inform the ombudsman for mental health and developmental disabilities. [Minn. Stat. § 260E.13](#). For purposes of compiling statistics, the local

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<sup>10</sup> The federal Child Abuse Prevention and Treatment Act provides that, in order to qualify for federal grants, a state must maintain the confidentiality of child abuse or neglect records, but may permit sharing by involved government agencies. [42 U.S.C. § 5106a\(b\)](#).

welfare agency must send the Department of Human Services information on every report of maltreatment it receives. [Minn. Rules, part 9560.0230](#), subp. 7.

If a local welfare agency or police department or county sheriff receives a report and fails to cross-notify as required under the chapter, the person within the agency or office who is responsible for such notification is subject to disciplinary action within the agency's existing policy or collective bargaining agreement. [Minn. Stat. § 260E.12](#), subd. 3.

Local welfare and law enforcement agencies may share records with a local welfare or other child welfare agency in another county or state, if the agency certifies that the records are needed to conduct an investigation of actions amounting to maltreatment and will only be used for those purposes, and will not be further disclosed. [Minn. Stat. § 260E.35](#), subd. 3.

The local welfare agency may share report records with the case consultation committee of the multidisciplinary child protection team, and committee members may share information with each other to assist in case consultation. [Minn. Stat. § 260E.02](#), subd. 4.

The local welfare agency or other investigating agency must make their report records available to the investigating, petitioning, or prosecuting authority, including a county medical examiner or coroner, in a court proceeding or investigation relating to a specific incident of maltreatment. [Minn. Stat. § 260E.35](#), subd. 3.

The local welfare agency or other investigating agency may share otherwise private data that is relevant to the child's care with a mandated reporter who has an ongoing responsibility for the health, education, or welfare of a child. A reporter who receives private data on individuals must treat the data according to that classification. [Minn. Stat. § 260E.35](#), subd. 4.

**Medical Examiner.** If a report is filed with the medical examiner because a death has occurred, the medical examiner must notify the local welfare agency, police department, or county sheriff, and investigate and report the results to the police department or sheriff and the local welfare agency. If a deceased child was receiving residential or nonresidential treatment from a chemical dependency, mental illness, or developmental disabilities program, agency, or facility, the coroner must notify and report findings to the state ombudsman for mental health and developmental disabilities. [Minn. Stat. § 260E.11](#), subd. 3.

**Licensed Facilities and Schools.** The Commissioner of Human Services, the Commissioner of Education, local welfare agencies, the police or sheriff, and the ombudsman for mental health and developmental disabilities may examine and copy a licensed facility's records when investigating possible abuse in the facility. When doing so, investigators may tell the facility that they are investigating a report of maltreatment, may disclose the alleged perpetrator's name, and may give the facility a copy of the report and the investigative findings. [Minn. Stat. § 260E.28](#), subd. 3.

A board or licensing entity that receives a report of alleged maltreatment in a school must report the alleged maltreatment to the Commissioner of Education. [Minn. Stat. § 260E.06](#), subd. 4.

**Confidentiality.** Personnel of governmental agencies, other than law enforcement or the local welfare agency, must treat written copies of maltreatment reports as confidential (not available to anyone, including the alleged perpetrator). [Minn. Stat. § 260E.35](#), subd. 3.

## What information other than the report itself can government agencies dealing with a maltreatment report share?

**Interview of Victim.** Law enforcement, local welfare agency, or investigating agency personnel may interview an alleged victim at school if they notify the school in writing that the purpose of the interview is to investigate a maltreatment report. Not later than the close of the investigation, they also must notify the child's parent or guardian that the interview has occurred, unless a juvenile court has issued an order to allow withholding this notice. [Minn. Stat. § 260E.22](#), subds. 2, 3, and 7.

**Notification to Reporter.** If the person who made the report is not a mandated reporter, the local welfare agency must give the person, upon request, a concise summary of the disposition of the report, unless release would be harmful to the child. A mandated reporter receives a summary automatically, without first making a request.<sup>11</sup> A mandated reporter who has an ongoing responsibility for the health, education, or welfare of the child shall be provided relevant private data unless providing the data would not be in the best interests of the child. [Minn. Stat. §§ 260E.10](#), subd. 2; [260E.35](#), subd. 4.

**Family Assessments and Investigations.** If a report involves alleged maltreatment in the child's home, the local welfare agency must notify the parent or guardian within ten working days after the family investigation or assessment ends of the determinations made, and the length of time the records will be retained before destruction. [Minn. Stat. § 260E.24](#), subds. 5 and 7.

**Licensed Facilities Investigations.** When a maltreatment report involves a licensed facility, the parents must be notified before children are interviewed, unless reasonable attempts to reach parents of a child in out-of-home placement fail. [Minn. Stat. § 260E.28](#), subd. 2.

When an investigation of maltreatment in a facility is completed, the agency **must** provide the child's parent, guardian, or legal custodian, and any other parent, guardian or legal custodian previously notified of the investigation, with a **written memorandum** containing the following information:

- the name of the facility investigated
- the nature of the alleged maltreatment
- the investigator's name
- a summary of the investigation findings
- a statement of whether maltreatment was found to have occurred
- protective or corrective measures that are being or will be taken

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<sup>11</sup> This is permitted by the regulations accompanying the federal law. [45 C.F.R. § 1340.14](#).

The memorandum must protect the identities of the reporter, alleged victim, perpetrator, and those interviewed during the investigation, to the extent possible.

If maltreatment is determined to have occurred in the facility, the agency must also provide the memorandum to the parent, guardian, or legal custodian of each child in the facility who had contact with the individual responsible for the maltreatment. If the *facility* is determined to have been responsible for the maltreatment, the agency must provide the written memorandum to the parent, guardian, or legal custodian of each child who received services in the population of the facility where the maltreatment occurred. [Minn. Stat. § 260E.30](#), subd. 5.

Within ten working days after a school or facility investigation concludes, the responsible agency must notify the child's parent, guardian, or legal custodian, the person determined to have maltreated the child, and the director of the facility of the determination and a summary of the specific reasons for the determination. The notice must also certify that statutory information collection procedures were followed and that the data subject has a right to obtain other information on herself or himself. [Minn. Stat. § 260E.30](#), subd. 6.

**Schools.** A school must release all requested data relevant to a maltreatment report to the Commissioner of Education. If the commissioner determines that maltreatment occurred involving a person who works in the school, the commissioner must report to the employer, school board, and any appropriate licensing entity the determination and what corrective or protective action was taken by the school. In all other cases, the commissioner must inform the school board or employer that a report was received, the subject and date of the report, the type of maltreatment alleged, the fact that maltreatment was not determined, and a summary of the reasons for the determination. [Minn. Stat. § 260E.30](#), subd. 1.

The Commissioner of Education must inform the parent, guardian, or legal custodian of a child who is the subject of a report in a school within ten days of receiving the report whether the commissioner is investigating the alleged maltreatment. After a school receives information about an incident that may constitute maltreatment in a school facility, regardless of whether a report is made, the school must inform the child's parent, guardian, or legal custodian of the incident. [Minn. Stat. § 260E.29](#), subd. 1.

The Commissioner of Education is not required to notify the parents, guardians, or legal custodians of all children in the school facility of a determination of maltreatment, but must provide written notification within ten days of the investigation's conclusion to the parents, guardians, or legal custodians of any student alleged to have been maltreated. The commissioner may also notify the parents, guardians, or legal custodians of students who witnessed the alleged maltreatment. [Minn. Stat. § 260E.30](#), subd. 5.

**Investigative Data.** A local welfare agency may release data on an active investigation or assessment to a court services agency if the court services agency has an active case involving the subject of the data and the data are necessary to effectively process the case. [Minn. Stat. § 260E.35](#), subd. 3.

**Child Fatality.** In most cases in which there is a child fatality or near fatality and there is a determination of child maltreatment or a person is criminally charged with having caused the

fatality or near fatality, a written summary of information and findings must be disclosed to the public upon request. [Minn. Stat. § 260E.35](#), subd. 7.

**Child Mortality Review Panel.** Police investigative data and data from social service agencies that worked with the family of a child believed to have died from maltreatment must be provided upon request to the Child Mortality Review Panel created pursuant to [Minnesota Statutes, section 256.01](#), subdivision 12.

**Citizen Review Panel.** Police investigative data and data from social service agencies that worked with the family of a child must be provided upon request to a citizen review panel created pursuant to [Minnesota Statutes, section 256.01](#), subdivision 15.

## **Who may examine the maltreatment report record during an active assessment or investigation?**

In addition to permitted government agency sharing, the alleged perpetrator and the parent, guardian, or legal custodian of the child (the individual subjects of a record) can access the case records created by the local welfare agency, except for the reporter's identity. They cannot see records held by a law enforcement agency or given to the local welfare agency by law enforcement. Anyone conducting an assessment or investigation who intentionally discloses the identity of a reporter before the completion of the investigation or assessment is guilty of a misdemeanor. [Minn. Stat. § 260E.35](#), subd. 3.

## **Who may access records when an investigation becomes inactive?**

Law enforcement records identifying the victim remain private data on individuals, and those identifying the reporter are confidential data on individuals. [Minn. Stat. § 260E.35](#), subd. 3.

The subject of a report may only compel disclosure of the reporter's name: (1) if the reporter consents; or (2) upon a written finding by the court that a report was false and made in bad faith. [Minn. Stat. § 260E.35](#), subd. 3.

Local welfare agency records, whether or not received from law enforcement, become private data on individuals (available to the subjects of the record). [Minn. Stat. § 260E.35](#), subds. 1 and 3.

# **Destruction of Report Records**

## **How long must maltreatment reports and records be kept?**

Records held by local welfare agencies, investigating agencies, and schools must be retained on the following schedule.

- 1) For reports alleging maltreatment that were not accepted for investigation or assessment, family assessment cases, and cases in which there is no determination of maltreatment or need for child protective services, records must be kept for five years.

These records may only be used to assist in future screening decisions and in future risk and safety assessments and may not be used for other purposes.

- 2) If there is a determination of maltreatment or need for child protective services, reports must be maintained for at least ten years after the final entry in the record.

Records regarding a report of maltreatment held by a school must be destroyed by the school when ordered to do so by the investigating agency. The agency must order the destruction of the records when other records regarding the report are scheduled to be destroyed.

Records given to a court services agency by a local welfare agency must be destroyed when the local welfare agency orders the destruction, following the general timetable that applies to the local welfare agency's other records relating to the assessment or investigation. [Minn. Stat. § 260E.35](#), subd. 6.



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