

26-8A-2. Abused or neglected child defined. In this chapter and chapter 26-7A, the term, abused or neglected child, means a child:

- (1) Whose parent, guardian, or custodian has abandoned the child or has subjected the child to mistreatment or abuse;
- (2) Who lacks proper parental care through the actions or omissions of the child's parent, guardian, or custodian;
- (3) Whose environment is injurious to the child's welfare;
- (4) Whose parent, guardian, or custodian fails or refuses to provide proper or necessary subsistence, supervision, education, medical care, or any other care necessary for the child's health, guidance, or well-being;
- (5) Who is homeless, without proper care, or not domiciled with the child's parent, guardian, or custodian through no fault of the child's parent, guardian, or custodian;
- (6) Who is threatened with substantial harm;
- (7) Who has sustained emotional harm or mental injury as indicated by an injury to the child's intellectual or psychological capacity evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture;
- (8) Who is subject to sexual abuse, sexual molestation, or sexual exploitation by the child's parent, guardian, custodian, or any other person responsible for the child's care;
- (9) Who was subject to prenatal exposure to abusive use of alcohol, marijuana, or any controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 34-20B; or
- (10) Whose parent, guardian, or custodian knowingly exposes the child to an environment that is being used for the manufacture, use, or distribution of methamphetamines or any other unlawfully manufactured controlled drug or substance.

Source: SDC 1939, § 43.0301 (12) as enacted by SL 1968, ch 164, § 1; SL 1984, ch 192, § 1; SL 1990, ch 170, § 4; SL 1991, ch 217, § 111B; SDCL Supp, § 26-8-6; SL 1998, ch 204, § 2; SL 2004, ch 181, § 1; SL 2005, ch 141, § 1; SL 2008, ch 137, § 1.

26-8A-3. Persons required to report child abuse or neglected child--Intentional failure as misdemeanor. Any physician, dentist, doctor of osteopathy, chiropractor, optometrist, mental health professional or counselor, podiatrist, psychologist, religious healing practitioner, social worker, hospital intern or resident, parole or court services officer, law enforcement officer, teacher, school counselor, school official, nurse, licensed or registered child welfare provider, employee or volunteer of a domestic abuse shelter, chemical dependency counselor, coroner, or any safety-sensitive position as defined in subdivision 23-3-64(2), who have reasonable cause to suspect that a child under the age of eighteen has been abused or neglected as defined in § 26-8A-2 shall report that information in accordance with §§ 26-8A-6, 26-8A-7, and 26-8A-8. Any person who intentionally fails to make the required report is guilty of a Class 1 misdemeanor. Any person who knows or has reason to suspect that a child has been abused or neglected as defined in § 26-8A-2 may report that information as provided in § 26-8A-8.

Source: SL 1964, ch 90, §§ 1, 5; SDCL, § 26-10-13; SL 1973, ch 172, § 1; SL 1975, ch 179, § 2; SL 1976, ch 167; SL 1982, ch 201; SL 1984, ch 192, § 2; SL 1985, ch 215, § 1; SL 1986, ch 223; SL 1991, ch 217, § 112B; SDCL Supp, § 26-10-10; SL 1993, ch 203; SL 2000, ch 122, § 1.