

Beyond COVID: Update on Other Hot Topics

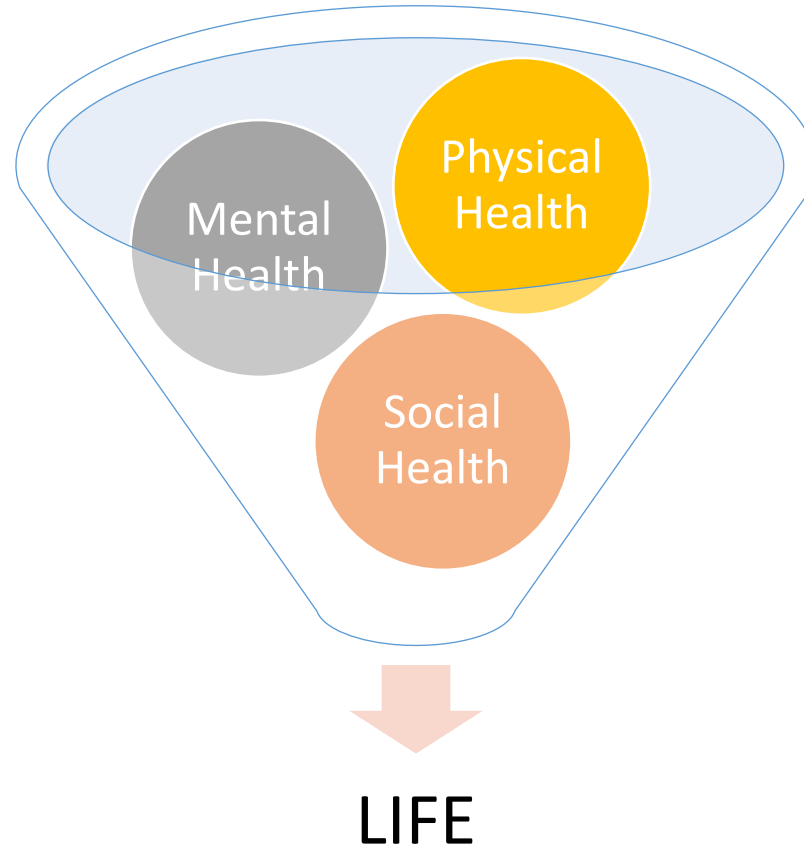
Sara DePasquale



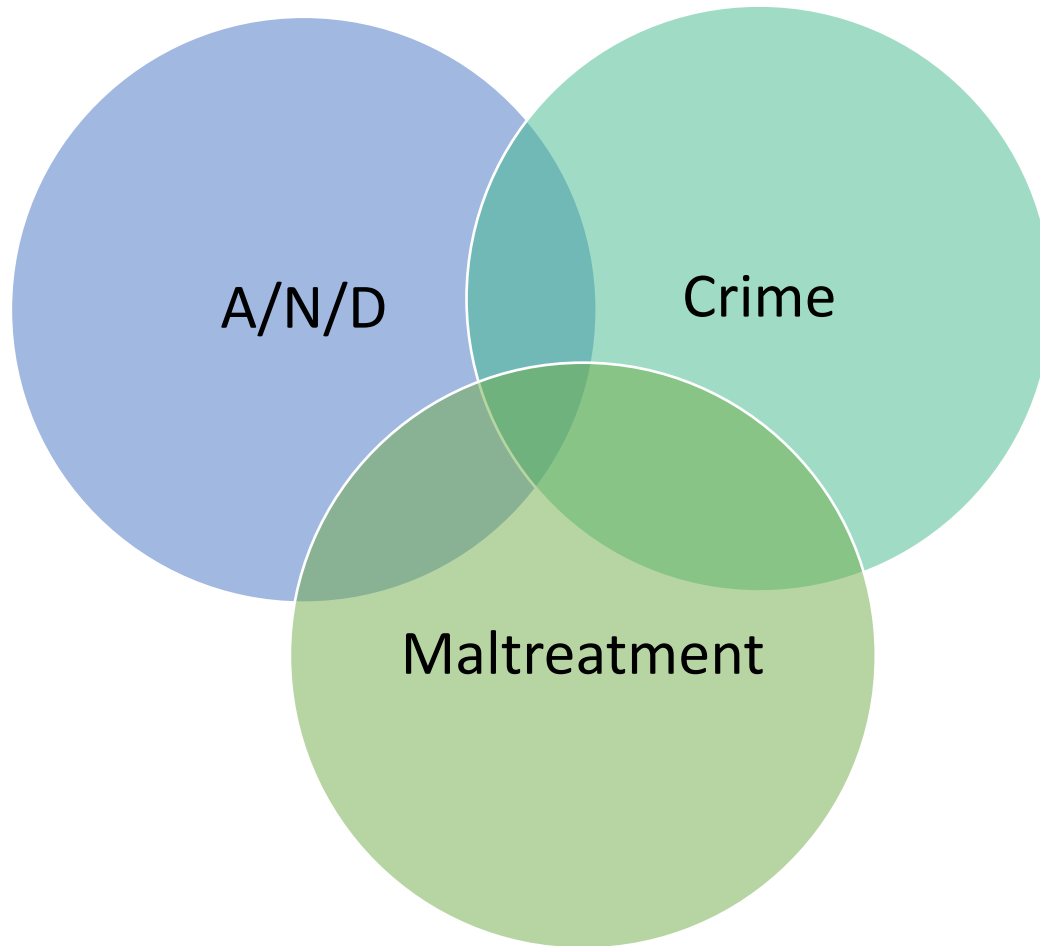
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There's More to Life than COVID



Universal Mandatory Reporting Laws Related to Children



On the Civil Side

A UNC School of Government Blog

BIG NEWS: S.L. 2019-245 Creates a New Universal Mandated Reporting Law for Child Victims of Crimes and Changes the Definition of “Caretaker”

This entry was contributed by Sara DePasquale on November 13, 2019 at 9:00 am and is filed under Child Welfare Law.



An Act to Protect Children from Sexual Abuse and to Strengthen and Modernize Sexual Assault Laws, S.L. 2019-245 (S199) enacts and amends various laws related to crimes;* amends some civil and criminal statutes of limitations; requires mandatory training for school personnel addressing child sex abuse and trafficking; amends the definition of “caretaker” as it relates to child abuse, neglect, or dependency; and creates a new universal mandatory reporting law for child victims of certain crimes.

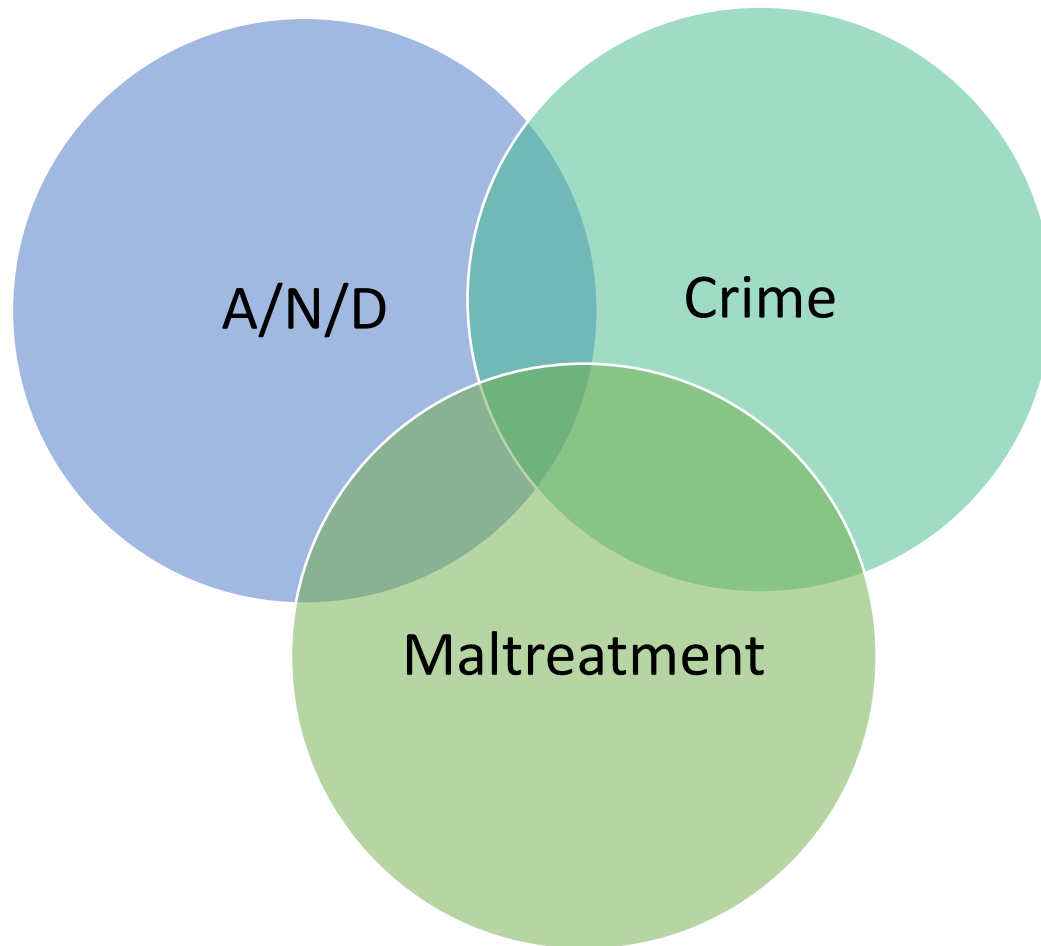
This post discusses

- the amendment to the definition of caretaker and
- the new mandatory reporting law, which requires any adult to make a report to law enforcement



Don't panic
(Title X training)

How do they all fit together



Commonalities

Universal Reporting: “any person”

Purposes to Protect Children

Good Faith Immunity for Reporter

Protection of Reporter Identity

Misdemeanor for knowing and
wanton violation

Differences



Criteria Triggering
Report

Definitions
The standard



The Agency to Report to



Timing of Making Report



Exemptions



What's Included in Report

DSS Report

A/N/D

- 1970s
- G.S. Chapter 7B
- Government Involvement with the Family
- Cause to Suspect
 - Abuse: Who and What
 - Neglect: Who and What
 - Dependency: Who and What
 - Minor Victim of Human Trafficking*

WHO

- Parent
- Guardian
- Custodian
- Caretaker
 - “an adult entrusted with the juvenile’s care”
- Minor Victim of Human Trafficking*



A/N/D

DHHS Report: DCDEE

Maltreatment

- 2016
- GS Chapter 110
- Government Involvement with Day Care

- Cause to Suspect
- Child Maltreatment
 - Harm, potential for harm, threat of harm
 - Physical
 - Sexual
 - Psychological

Local Law Enforcement Report

Crime

- 2013
- GS 14-318.5
- Government Involvement with Perpetrator
- Disappearance of a child
 - Under 16
 - 24-hour period
 - Reasonably suspects disappearance and danger

Local Law Enforcement Report

Crime

- 2019
- GS 14-318.6
- Government Involvement with Perpetrator
- Juvenile Victim of Certain Crimes

Criteria to Report: What Crimes

- Victim of violent offense
 - Nonaccidental serious bodily injury
 - Substantial risk of death
 - Permanent disfigurement/loss of function/protracted extreme pain
 - Nonaccidental serious physical injury
 - Great pain and suffering
- Victim of sexual (violent) offense
 - Ambiguity (29 vs. 4)
- Victim of misdemeanor child abuse
 - Under 16 y.o.
 - Parent/other person providing supervision
 - Nonaccidental physical injury

Jill's Table – Guidance Only

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



Who Is a Juvenile?

Crime, if juvenile at time

S 199: Defines juvenile ... “for the purposes of this section, the age of the juvenile at the time of the abuse or offense governs.”



Standard

Knows or should have
reasonably known

When and How to Report

- Immediately
- Phone or writing



Contents of Report

- Your name, address, phone
- Juvenile's name, age, address, present whereabouts
- Name & address of parent, guardian, custodian
- Name, address, age of perpetrator
- Location of offense
- Nature & extent of any injury or condition
- Names & ages of other juveniles present or in danger
- Other helpful information

Who Is Exempt?

Licensed psychologists, associates, employees

Licensed SW engaged in private SW practice

Licensed clinical mental health counselors & associates

Licensed professional counselors

Agents of rape crisis centers and DV programs

Table: Comparison of Two Mandated Reporting Statutes

	G.S. 7B-301	G.S. 14-318.6
Who is obligated to report	Any person or institution	Any person 18 or older
Who is exempted from reporting	Attorneys who gain knowledge or suspicion from representation in the abuse, neglect, or dependency case (See G.S. 7B-310)	Those with privilege as <ul style="list-style-type: none"> • Attorneys • Licensed psychologists, associates, and employees • Licensed or certified social workers engaged in private social work services • Licensed professional counselors and associates (renamed to licensed clinical mental health counselors, effective 1/1/2020) • Agents of rape crisis centers and domestic violence programs
Standard	Cause to suspect	Know or should have reasonably known
Victim	Juvenile (under 18 years old, not emancipated, married, or in the U.S. Armed Forces) (See G.S. 7B-101(14))	Juvenile (under 18 years old, not emancipated, married, or in the U.S. Armed Forces). “[T]he age of the juvenile at the time of the abuse or offense governs.”
What	<ul style="list-style-type: none"> • Abuse • Neglect • Dependency (See G.S. 7B-101(1), (9), (15))	Has been or is the victim of a <ul style="list-style-type: none"> • Violent offense, • Sexual offense, or • Misdemeanor child abuse

Multiple Reports May Be Required





Questions?