



This page contains the most frequently asked questions in regards to the changes in the mental health reporting system. In an effort to simplify the search for your inquiry, these questions have been separated into the following categories:

Age _____
Clear & Present Danger
Confidentiality & Liability
Court Adjudications/Non-Adjudications
Developmental _____ Disability
Facility Reporting
Intellectual Disability
Schools _____
What to Report
Who Reports

The FOID Staff asks that you review the following information, as it may eliminate some of your initial questions and provide some clarification:

**Upon DETERMINING a person to be a clear and present danger, developmentally disabled (14 years old or older) or intellectually disabled, any healthcare provider SPECIFICALLY IDENTIFIED IN THE STATUTE will need to register then report. This is regardless of the provider's practice, regardless of the person's age (for clear and present danger or intellectually disabled) and regardless of any other diagnosis of the person.*

**If you do not have anything to report, you are NOT REQUIRED to register. The only action that needs to be taken is to please familiarize yourself with these new requirements.*

**This reporting requirement IS NOT exclusive to those with interests in their FOID or Concealed Carry rights.*

**Only persons that you have PERSONALLY made the outlined determination(s) of should be reported.*

**Reporting should only be done by a healthcare provider SPECIFICALLY IDENTIFIED IN THE STATUTE.*

**The Department is unable to advise you on ANY clinical decision or determination. We are working with various associations to develop educational and training materials and we do advise you to contact your association for further clinical direction.*

Please contact the Department of Human Services FOID Staff at dhs.foid@illinois.gov if you continue to need assistance.

AGE

1. Is there an age cut off for when I have to report a person?

No

2. Do I report a person's diagnosis even if they are younger than 18 years old or do I wait until they are 18 years old?

The person would be reported even if they are under 18 if they are determined to be a clear and present danger or intellectually disabled. A person determined to be developmentally disabled would be reported if they are 14 years old or older.

3. In order to have the FOID, one must be 18 years old. I work in a high school, what laws apply to those under 18 without FOID?

*This law applies to **ALL** students determined to be a clear present danger, developmentally disabled or intellectually disabled.*

4. As a physician, we see minors with depression, anxiety, and others. What are the requirements for reporting? Do we report anyone and everyone with a diagnosis? Do we only report people who are not controlled?

Upon determining a person to be a clear and present danger, developmentally disabled (14 years old or older) or intellectually disabled, any healthcare provider specifically identified in the statute will need to register then report regardless of age (for clear and present danger or intellectually disabled) or other diagnosis.

5. Is there an age that the mental health reporting act begins, or do we report clear and present danger, intellectual disabilities and developmental disabilities for minors as well?

You do report for minors. There is no age limit when reporting clear and present danger or intellectual disability. Developmental disability is reported for persons 14 years old or older.

6. If a child is reported at 13 for being suicidal, will they be prevented from carrying a firearm when they are 25? 30?

ISP makes the decision on whether or not to issue a FOID card at the time of application. It is possible the FOID card would be denied when they eventually apply for the card.

7. Are physicians required to report minors who meet the definition of "developmentally disabled" or "intellectually disabled"? If so, what if a provider does not know if the disability will continue beyond age 18? For example, if a child is diagnosed with a condition one year old it may not be clear how that disability will affect a child at age 18.
- Physicians are required to report minors 14 years old or older when they are determined to be developmentally disabled. They are not required to report if someone else made the determination. A clinician has to use their best professional judgment when making a determination after considering all factors.*

CLEAR AND PRESENT DANGER

"Clear and Present Danger" means a person who:

(1) communicates a serious threat of physical violence against a reasonably identifiable victim or poses a clear and imminent risk of serious physical injury to himself, herself, or another person as determined by a physician, clinical psychologist, or qualified examiner; or

(2) demonstrates threatening physical or verbal behavior, such as violent, suicidal, or assaultive threats, actions, or other behavior, as determined by a physician, clinical psychologist, qualified examiner, school administrator, or law enforcement official. (FOID Act, Sec. 1.1)

1. Are there any other characteristics I am looking for to report a person other than that they have developmental and intellectual disabilities?
Yes, clear and present danger
2. If a person is admitted to a psychiatric unit of a hospital for a mental illness, but they are NOT a clear and present danger to themselves or others, is that a person who would be reported?
Yes, the facility would report the admission.
3. Should a Clear and Present Danger be reported if the person admits him or herself?
Yes. A Clear and Present Danger should be reported within 24 hours whenever that determination is made.
4. Is an Emergency Petition the same thing as Clear and Present Danger?
No. An Emergency Petition is actually a Non-Adjudicated/Voluntary admission. A Clear and Present Danger is a determination made by a physician, clinical psychologist, or qualified examiner.
5. Since the facility and qualified examiner are required to report a Clear and Present Danger, won't there be duplicate reporting?
Yes, in several instances, duplicate reporting is likely.

CONFIDENTIALITY AND LIABILITY

1. As minors only possess FOID cards upon parental consent, would parents be notified if a minor is reported as “clear and present danger” or “developmentally disabled” or intellectually disabled”?

Mandated reporters are not required to inform the person a report is being made. The decision of whether to inform the person and/or their parent or guardian is left up to the physician, clinical psychologist, or qualified examiner.

2. Can you please provide information on confidentiality and this new reporting requirement? It would seem at a minimum we would need to inform our clients of this new change.

Legal interpretations of the confidentiality laws and what you legally need to inform your clients should be a matter of discussion with your own attorney or liability carrier.

3. How do we follow HIPAA and comply with law?

HIPAA contains exceptions for reporting some “personal health information” in accordance with the requirements of state law (e.g: child abuse, gunshot wounds). The reporting for FOID is required by state law for those facilities and physicians, clinical psychologists, or qualified examiners for which it applies.

4. How do we follow NASW expectation on social work confidentiality and comply with law?

This may be a matter better discussed with the NASW.

More information on Liability:

The physician, clinical psychologist, qualified examiner, law enforcement official, or school administrator making the determination and his or her employer shall not be held criminally, civilly, or professionally liable for making or not making the notification required under this subsection, except for willful or wanton misconduct. [FOID Act, Sec. 8.1(d); MHDD Act, Secs. 6-103.2, 6-103.3]

Any person, institution, or agency, under this Act, participating in good faith in the reporting or disclosure of records and communications otherwise in accordance with this provision or with rules, regulations or guidelines issued by the Department shall have immunity from any liability, civil, criminal or otherwise, that might result by reason of action. For the purpose of any proceeding, civil, or criminal, arising out of a report or disclosure in accordance with this provision, the good faith of any person, institution, or agency so reporting or disclosing shall be presumed. The full extent of the immunity provided in this subsection (b) shall apply to any person, institution or agency that fails to make a report or disclosure in the good faith believe that the report or disclosure would violate federal regulation governing the confidentiality of alcohol and drug abuse patient records implementing 42 USC 290dd-3 and 290ee-3. [MHDD Confidentiality Act, Sec 12 (b)]

COURT ADJUDICATIONS/NON-ADJUDICATIONS

1. If a person comes in to our facility on a writ, signed by a judge, but has not yet gone to court, so does not have a docket number, how do I enter this person in? Today I entered in as non-adjudicated as it has not actually had a court date and so no docket number needed. Did I do this correctly?
Yes, this is the correct way of entering this.
2. Why aren't people who are determined by the courts to be a potential danger reported by the courts that make that determination?
The courts are required to report that a person has been adjudicated as a mentally disabled person.
3. How are physicians supposed to be aware of court adjudicated situations?
Physicians are not required to report adjudications but are required to report clear and present danger, developmentally disabled or intellectually disabled persons.
4. Is an Emergency Petition the same thing as Clear and Present Danger?
No. An Emergency Petition is actually a Non-Adjudicated/Voluntary admission. A Clear and Present Danger is a determination made by a physician, clinical psychologist, or qualified examiner.

DEVELOPMENTAL DISABILITY

"Developmentally disabled" means:

For purposes of this Section, "developmentally disabled" means a disability which is attributable to any other condition which results in impairment similar to that caused by an intellectual disability and which requires services similar to those required by intellectually disabled persons. The disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial disability. This disability results in the professional opinion of a physician, clinical psychologist, or qualified examiner, in significant functional limitations in 3 or more of the following areas of major life activity:

- (i) self-care;
- (ii) receptive and expressive language;
- (iii) learning;
- (iv) mobility; or
- (v) self-direction.

(FOID Act Sec. 1.1)

"Determined to be developmentally disabled by a physician, clinical psychologist, or qualified examiner" means in the professional opinion of the physician, clinical psychologist, or qualified examiner, a person is diagnosed, assessed, or evaluated to be developmentally disabled.

1. Are there any other characteristics I am looking for to report a person other than that they have developmental and intellectual disabilities?
Yes, clear and present danger
2. Does this mean that anyone we see who is developmentally delayed or mentally disabled we are required to notify the state so if in the future they want to purchase a gun, you have that on record?
Yes, you are required to report any person 14 years old or older that you determine to have a developmental disability.
3. Is there a mechanism in place that enables a professional reporting a person with a DD or ID diagnosis to know whether or not that person has already been identified to the system?
No. physicians, clinical psychologists, and qualified examiners, are required to report the determination of DD and/or ID at the time the determination is made.
4. Which physicians are required to report development or intellectual disability? Those making the diagnosis? Those providing primary care? What if the providers disagree on if they meet the standard of "substantial handicap"?
Any physician, clinical psychologist, or qualified examiner MAKING THE DETERMINATION is required to report. A physician, clinical psychologist, or qualified examiner can provide treatment and not be required to report if the provider is not making the determination

of the DD/ID. Only the physician, clinical psychologist, or qualified examiner who is making the determination is required to report.

FACILITY REPORTING

1. How often are Facilities with Inpatient Mental Health Treatment Programs required to report?
If your facility provides inpatient mental health treatment, you must report within 7 days of the admission date. Discharge dates must be reported within 7 days as well. Many facilities pick a day of the week to submit their data so that it becomes part of a routine. At this time, your physician, clinical psychologist, or qualified examiners will need to report Clear and Present danger events within 24 hours.
2. How often are facilities without inpatient mental health treatment programs required to report?
Facilities without inpatient mental health treatment programs are only required to report when a determination is made. Clear and Present Dangers must be reported within 24 hours. Court adjudications must be reported within 7 days.
3. Does my facility with a inpatient mental health treatment program need to report if there are no admissions or discharges?
Yes. There is a function called “Nothing to Report” that you can utilize to notify the Department of Human Services that you have no admissions or discharges that week.
4. How do I add a facility user?
Follow the link <https://foid.dhs.illinois.gov/foidpublic/foid/> and click on “Facility Reporting”.
5. Does my facility with a inpatient mental health treatment program need to report the discharge date?
Yes. If your facility reports inpatient admissions, you must report the discharge date within seven days of discharge. You may report by batch or manual process.
6. Does my facility have to use the batch reporting process?
No. Your facility may report records by using the online FOID Mental Health Reporting web site.
7. Can my facility do a batch submission for any admission?
The batch submission process is only used for facilities both with and without Inpatient Mental Health treatment programs.
8. If a person is admitted one day, then determined to be Clear and Present Danger later, when should I report the Clear and Present Danger?
After the admission has been reported, a hospital user can edit the person’s record by adding Clear and Present Danger. Such a report should be made within 24 hours. This must be reported using the website and not the batch submission process.

9. If a person is reported as Clear and Present Danger, then it is determined that the person was intoxicated or using a controlled substance, can I delete the submitted record?
If the determination of Clear and Present Danger was in error, you may go to the online reporting system and delete the record.
10. Should a Clear and Present Danger be reported if the person admits him or herself?
Yes. A Clear and Present Danger should be reported within 24 hours whenever that determination is made.
11. If my facility provides outpatient mental health treatment should my facility report?
Yes, but only court adjudications, Clear and Present Dangers and Developmentally Disabled persons/Intellectually Disabled.
12. Can a facility add Clear and Present Danger to a record after the person has been submitted for an inpatient admission?
Yes. If the person has been determined to be a Clear and Present Danger days after the admission date, the facility can update the record to show a Clear and Present Danger. This must be reported within 24 hours of the determination. This must be reported using the website and not the batch submission process.
13. Since the facility and qualified examiner are required to report a Clear and Present Danger, won't there be duplicate reporting?
Yes, in several instances, duplicate reporting is likely.
14. If a person is reported as being a Voluntary Admission, then is converted to Involuntary, should the status be changed in the FOID Mental Health Reporting System?
Yes. You may do so by batch process or by manual entry via the FOID Mental Health Reporting System web site.

INTELLECTUAL DISABILITY

“Intellectually Disabled” means:

Significantly sub average general intellectual functioning which exists concurrently with impairment in adaptive behavior and which originates before the age of 18 years. (FOID Act Sec. 1.1)

1. Are there any other characteristics I am looking for to report a person other than that they have developmental and intellectual disabilities?

Yes, clear and present danger

2. Is there a mechanism in place that enables a professional reporting a person with a DD or ID diagnosis to know whether or not that person has already been identified to the system?

No. Physicians, clinical psychologists, and qualified examiners are required to report the determination of DD and/or ID at the time the determination is made.

3. Which physicians are required to report development or intellectual disability? Those making the diagnosis? Those providing primary care? What if the providers disagree on if they meet the standard of “substantial handicap”?

Any physician, clinical psychologist, or qualified examiner MAKING THE DETERMINATION is required to report. A physician, clinical psychologist, or qualified examiner can provide treatment and not be required to report if the provider is not making the determination of the DD/ID. Only the physician, clinical psychologist, or qualified examiner who is making the determination is required to report.

SCHOOLS

1. I am a school social worker, working in a high school. Am I required to report any student who is hospitalized for mental health concerns, when I have knowledge of the hospitalization, or is the hospital staff responsible for that reporting?
The hospital is responsible for reporting.
2. I am a social worker at a high school. We have been discussing the new law for us to report persons determined to be clear and present danger, developmentally disabled, and intellectually disabled while having the FOID card.
The responsibility to report persons determined to be a clear present danger, developmentally disabled or intellectually disabled is not exclusive to persons with a FOID card.
3. In order to have the FOID, one must be 18 years old. I work in a high school, what laws apply to those under 18 without FOID?
This law applies to ALL students determined to be a clear present danger, intellectually disabled and students 14 years or older determined to be developmentally disabled.
4. In a high school, students who are determined as developmentally disabled or intellectually disabled make up a large percent of our population. Would these be in conjunction with "clear and present danger"?
These students should be reported as developmentally disabled or intellectually disabled. Anyone who is determined to be a clear and present danger, regardless if it is in conjunction with being developmentally or intellectually disabled needs to be reported.
5. I have many questions about this reporting requirement as it pertains to the School Health Centers funded by the Department of Public Health and would like to speak to someone.
Reporting from a school administrator is handled through the Illinois State Police.
6. Is school staff required to report all developmentally/intellectually disabled students to DHS. Also, what timeline is required for reporting?
If you are one of the physicians, clinical psychologists, or qualified examiners specifically identified in the statute that are required to report, then you are required to report when you make the determination that a person is developmentally disabled. The timeline is within 7 days of determination. You are not required to report where other people have made the determination.

WHAT TO REPORT

1. Is this to report any potential suspected person who are carrying a gun or we think they may be carrying a gun?
No.
2. Not everyone admitted is a danger to themselves or others, and the reporting rules keep making it sound like they need to be a clear and present danger, so it is confusing. Please clarify.
Reporting an admission to a psychiatric unit and reporting a clear and present danger are two separate events. If either or both occurs they need to be reported.
3. Do we also have to go back and enter information for clients who we know have been in a psychiatric hospital within the last five years or are we required to just provide that information from this point forward?
A records review is required back to January, 2014.
4. Is there a mechanism in place that enables a professional reporting a person with a DD or ID diagnosis to know whether or not that person has already been identified to the system?
No. Physicians, clinical psychologists, and qualified examiners are required to report the determination of DD and/or ID at the time the determination is made.
5. The law requires a report after a determination is made. Is a determination made at the point of diagnosis? How, specifically, are you defining this term?
Yes. We are leaving the exact definition of determination up to the qualified examiner. If you believe you are making the determination the individual is DD/ID then you should report.

Additional information is available in the **what to report section of this website.*

WHO REPORTS

1. I am a healthcare provider, should I report?

If your facility provides Inpatient Mental Health Treatment, you must report any admission, court adjudication, or persons determined to be clear and present danger or developmentally disabled/intellectually disabled.

If your facility does not provide Inpatient Mental Health Treatment, you may be required to report court adjudications, clear and present dangers and developmentally disabled/intellectually disabled persons. At this time, facilities without inpatient mental health treatment programs cannot report, although, individual physicians, clinical psychologists, and qualified examiners at your facility can still report online.

If you are an individual physician, clinical psychologist, or qualified examiner, you may be required to report. Please go to our website to see if you need to report <https://foid2.dhs.illinois.gov/foidpublic/foid/> there will be links explaining who is to report and what is to be reported.

2. I am unsure why I received correspondence pertaining to this.

If you received any correspondence, you have been identified by the IDFPR as a healthcare provider. Visit our website <https://foid2.dhs.illinois.gov/foidpublic/foid/> for more information.

3. Is it the same as being a mandated reporter for child abuse? (Where we are obligated to report because we are licensed.)

There are some similarities but also some differences. The primary differences are that not all licensed health care professionals are mandated reporters. Only those specifically identified in the statute must report. A second difference is there must be a therapist/person relationship before a physician, clinical psychologist or qualified examiner is required to report. Simply observing an incident or examining a victim is not in itself sufficient to trigger reporting. It is accurate that compliance with this statutory mandate is a requirement of licensure by IDFPR.

4. I write to determine whether an insurance company who employs Physicians, nurses and social workers to perform second level review of medical records is required to report an individual they determine to be a clear and present danger.

Employees of insurance companies who review patient's medical records are not required to report.

5. I understand that Alcohol and Substance Abuse Treatment programs have different standards and I was hoping you could clarify what constitutes "qualified examiners".

*References to these types of programs are specifically outlined in the **scenarios** section of this website.*

6. You indicate registered nurses must report but the law requires RNs who are “qualified examiners.” Can you confirm the group of RNs that are required to report a person who meets the statutory criteria for reporting?

The definition of RN who is a qualified examiner is: A registered nurse with a master’s degree in psychiatric nursing who has 3 years of clinical training and experience in the evaluation and treatment of mental illness which has been acquired subsequent to any training and experience which constituted a part of the degree program.

7. Should a CILA/DT program be following this new system and rule to be in compliance or is this reporting specifically for those with an identified mental health treatment program?

CILA/DT providers do not fall under the definition of Mental Health Treatment Program. However, if you employ or contract with a physician, clinical psychologist, or qualified examiner that person will have to report the determination of Clear & Present danger, DD, or ID.

8. If a CILA/DT program needs mental health services for one of our clients we refer them to a facility with a mental health treatment program, we do not provide this type of support. So would the mental health facility report our client once they see and assess them or would we as a CLIA for the fact that we are referring them for such services?

The facility with the mental health treatment program would do the reporting.

9. Which physicians are required to report development or intellectual disability? Those making the diagnosis? Those providing primary care? What if the providers disagree on if they meet the standard of “substantial handicap”?

Any physician, clinical psychologist, or qualified examiner making the determination is required to report. A physician, clinical psychologist, or qualified examiner can provide treatment and not be required to report if the provider is not making the determination of the DD/ID. Only the physician, clinical psychologist, or qualified examiner who is making the determination is required to report.

10. Is staff at domestic violence programs/shelters considered to be reporters? I want to ensure that our programs/shelters do not acquire this status simply by virtue of having clinicians on staff.

The only professionals who are required to report are physicians, clinical psychologists or qualified examiners. The question of whether your domestic violence shelter/program is an “facility without an inpatient mental health treatment program” is best answered by making a review of the services provided and the professional staff providing those services.

*Additional information is available in the **who reports** section of this website.