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THE WISCONSIN CHILD ABUSE AND NEGLECT LAW



- Definitions of Abuse
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Changes relating to the investigation of child abuse or neglect went into effect January 1, 2000. The current laws defining abuse, neglect, emotional damage, and reporting requirements should be familiar to mandated reporters, care givers, and all persons concerned about the safety of children.

CHILD ABUSE AND NEGLECT DEFINED

PHYSICAL ABUSE: WI Statutes Chapter 48

- Physical injury inflicted on a child by other than accidental means
- Physical injury includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe or frequent bruising, or great bodily harm (bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury)
- When referring to an unborn child (a human being from the time of fertilization to the time of birth), abuse means serious physical harm inflicted on the unborn child, and the risk of serious physical harm to the child when born, caused by the habitual lack of self-control of the expectant mother in the use of alcohol beverages, controlled substances, or controlled substance analogs, exhibited to a severe degree



CORPORAL PUNISHMENT: WI Statutes Chapter 939.45

Corporal punishment is not against the law. A defense to criminal liability can be claimed by the parent, stepparent, guardian when the conduct is reasonable discipline of a child. Reasonable discipline may involve only such force as a reasonable person believes is necessary. It is never reasonable discipline to use force which is intended to cause great bodily harm or death or creates an unreasonable risk of great bodily harm or death.

NEGLECT: Chapter 48

Neglect means failure, refusal, or inability on the part of a parent, guardian, legal custodian, or other person exercising temporary or permanent control over a child, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care, or shelter so as to **seriously endanger the physical health of the child.**



SEXUAL ABUSE: Chapter 48 and 948

- Sexual intercourse or sexual contact has occurred with a person under age 16
- Non-consensual sexual intercourse or sexual contact with a person under age 18
- Sexual intercourse or sexual contact occurred or is likely to occur with a care giver
- Permitting, allowing, or encouraging a child in prostitution
- Forced viewing of sexual activity for the purpose of sexually arousing or gratifying the actor or humiliating or degrading the child
- Sexual exploitation of a child (photographing taping, displaying sexual activity)
- Exposing genitals or pubic area for purposes of sexual arousal or gratification

EMOTIONAL DAMAGE: Chapter 48

Emotional damage means harm to a child's psychological or intellectual functioning which is exhibited to a severe degree by one or more of the following:

- Anxiety
- Depression
- Withdrawal
- Outward Aggressive Behavior
- Substantial and observable change in behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development.



The parent or guardian has neglected, refused, or been unable for reason's other than poverty to obtain the necessary treatment or to take steps to ameliorate the symptoms.

METHAMPHETAMINE MANUFACTURE: Manufacture of methamphetamine with a child physically present; or in a child's home, on the premises of a child's home, or in a motor vehicle located on the premises of a child's home; or under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by the child.

MANDATED REPORTER RESPONSIBILITY

The below named persons having reasonable cause to suspect that a child, seen in the course of professional duties, has been abused or neglected or has been threatened with abuse or neglect and that abuse or neglect of the child will occur, shall report as indicated below.

Any person, including an attorney, having reason to believe that a child or unborn child has been abused or neglected or threatened with abuse or neglect and abuse or neglect will occur, may make a report.

EXCEPTION TO REPORTING

A physician, physician assistant, nurse, family planning service provider, pregnancy testing service provider, obstetrical health care provider, or provider of services for the diagnosis or screening of a sexually transmitted disease, or court-appointed special advocate are not required to report sexual intercourse or sexual contact involving a child.

However, they are required to report if:

1. The sexual intercourse or contact occurred or is likely to occur with a caretaker.
2. The child suffered or suffers from a mental illness or mental deficiency that rendered the child temporarily or permanently incapable of understanding or evaluating the consequences of his or her action.
3. The child, because of his or her age or immaturity, was or is incapable of understanding the nature or consequences of sexual intercourse or contact.
4. The child was unconscious at the time of the act or for any other reason was physically unable to communicate unwillingness to engage in sexual intercourse or contact.
5. Another participant in the sexual contact or intercourse was or is exploiting the child.
6. A person described under "Exception to Reporting" shall report if he or she has any reasonable doubt as to the voluntariness of the child's participation in the sexual contact or intercourse

WHO IS A MANDATED REPORTER

State statutes address the issue of who is required to report cases of suspected child abuse or neglect. Required reporters include:

Physician
Coroner
Medical Examiner
Nurse
Dentist
Chiropractor
Optometrist
Acupuncturist
Other Medical Professional
Mental Health Professional
Social Worker
Marriage and Family Therapist
Professional Counselor
Public Assistance Worker
Financial and Employment Planner
School Teacher
School Administrator
School Counselor
Mediator under S.767.11
Child Care Worker in a Day Care Center or Residential Care Center
Day Care Provider
Alcohol or Other Drug Abuse Counselor
Treatment Staff Employed by or Contracted with a County Department under 46.23, 51.42, 51.437
Physical Therapist or Assistant
Occupational Therapist
Dietician
Speech/language Pathologist
Audiologist
Emergency Medical Technician
First Responder
Police or Law Enforcement Officer
Court Appointed Special Advocate
Member of the clergy except for information received in a confessional setting under the tenets of a religion

WHERE TO REPORT WHAT TO REPORT

Call Portage County Health and Human Services Department at (715) 345-5350 and ask to speak to the Intake Social Worker OR

Portage County Sheriff's Department at 346-1400
Stevens Point Police Department at 346-1500
Plover Police Department at 345-5255.

If a child is in immediate danger call law enforcement.

As well as you can, explain what happened or what is happening to the child. What type of abuse or neglect is occurring. Be as specific as possible. Describe incidents. Provide name, age, and address of child, if possible.

IMMUNITY FROM LIABILITY

Any person or institution making a child abuse or neglect report in good faith, ordering or taking a photograph, or ordering or performing medical examinations of a child shall have immunity from any liability whether it be civil or criminal. No person making a report may be discharged from their employment for so doing.

PENALTY FOR FAILURE TO REPORT

Anyone required to file a child abuse or neglect report and fails to do so, may be fined not more than \$1,000 or imprisoned not more than six months, or both.

RESPONSE FROM CHILD PROTECTIVE SERVICES

Child Protective Services staff assess the report to determine if it meets the criteria of child abuse defined in the statutes. If it meets the criteria an investigation will be initiated. If it is screened out other services may be offered to the family. Mandated reporters are notified as to the disposition the report.

Within 60 days of receiving a report, child protective services must inform the mandated reporter of what action, if any, was taken to protect the health and welfare of the child who is the subject of the report.

INVESTIGATION OF REPORTS

LAW ENFORCEMENT INVESTIGATION

Any person may request an immediate investigation by law enforcement officers if they suspect a child's health or safety is in immediate danger. Law enforcement must immediately investigate to determine if the child is in immediate danger and take any necessary action to protect the child. Officers are to collect evidence related to possible criminal behavior and must refer all reported cases to Portage County Health and Human Services Department.

CHILD PROTECTIVE SERVICES INVESTIGATION

Child protective services is a social service intervention. The primary function of investigation is to identify families who require support and services to assure child safety and care. Investigations are used to introduce the agency to the family as a source of help. In keeping with the legislative purpose of the children's code, parents are assisted in changing any circumstances in the home which might harm the child. Efforts focus on preserving the unity of the family whenever possible.

REMOVAL OF CHILDREN FROM THE HOME

Children are removed from the home only if conditions or behaviors in the home are likely to result in severe harm to the children and a safety plan cannot be put in place to eliminate the immediate threat. If the agency takes Temporary Physical Custody, a hearing must be held within 48 hours at which time the Juvenile Court Judge decides if the children will remain out of the home. Subsequent hearings (CHIPS) determine final disposition. Children are generally placed with relatives or in foster care.

INVESTIGATION OF REPORTS

In Portage County reports of suspected child abuse or neglect can be made to either a law enforcement agency or to the Health and Human Services Department. Although roles and focus differ, investigations are frequently done jointly by law enforcement officers and child protective services staff.