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REPORTING CHILD ABUSE OR NEGLECT

The child abuse and neglect reporting law requires members of various professions and occupations to report to proper authorities any suspected or threatened abuse or neglect of children they see in the course of their professional duties. The law was created by Chapter 333, Laws of 1965, and originally covered physicians, surgeons, nurses, social workers, and school administrators. It has been amended numerous times to add additional occupations.

2011 Wisconsin Act 81, which was signed into law by Governor Walker on November 23, 2011, and took effect on December 9, 2011, adds all school employees, regardless of position, to the list of those required to report suspected or threatened child abuse or neglect. Previously, only school teachers, administrators, and counselors were required to report under the mandatory reporting law. Act 81 also requires school district employees to be trained in child abuse and neglect certification and reporting procedures and provides additional employment protections to any person who makes a child abuse or neglect report.

This brief summarizes the child abuse and neglect reporting law, Section 48.981, Wisconsin Statutes.

WHAT IS CHILD ABUSE AND NEGLECT?

Section 48.02 (1), Wisconsin Statutes, generally defines **abuse** of a child as meaning "physical injury inflicted on a child by other than accidental means." Abuse also includes certain sex offenses including sexual assault; sexual exploitation of a child; permitting, allowing, or encouraging a child to engage in prostitution; causing a child to view or listen to sexual activity; and exposing genitals or pubic area. In addition, abuse includes manufacturing methamphetamine with a child physically present, in a child's home, or within sight, smell, or hearing of a child.

Section 48.02 (12g) defines **neglect** of a child as the failure, refusal, or inability on the part of a caregiver, 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.

WHO MUST REPORT?

The child abuse and neglect reporting law generally requires any of the following persons who have reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected, or have reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect is likely to occur, to report the suspicion to proper authorities:

- A physician, nurse, dentist, chiropractor, optometrist, acupuncturist, or any other medical or mental health professional.
- A school teacher, administrator, counselor, or any other school employee.
- A social worker, marriage and family therapist, professional counselor, or alcohol or other drug abuse counselor.
- A police or law enforcement officer, first responder, or emergency medical technician.
- A child care provider or child care worker.
- A physical therapist or assistant, occupational therapist, dietitian, audiologist, or speech-language pathologist.
- A public assistance worker, family court services mediator, or court-appointed special advocate.
- A member of the clergy. A clergymember must also report if he or she has reasonable cause, based on observations made or information that he or she receives, to suspect that another member of the clergy has sexually abused a child or threatened a child with sexual abuse which will likely occur.

Exceptions. A member of the clergy is generally not required to report child abuse information received solely through confidential communications made privately in a confessional setting. Also generally excepted are health care providers who provide confidential health care services such as family planning services, pregnancy testing, obstetrical health care or screening, diagnosis, and treatment for a sexually transmitted disease

Optional Reporting. Any other person, including an attorney, may make a report if he or she has reason to suspect that a child has been abused or neglected or is at substantial risk for abuse or neglect.

WHERE TO SUBMIT REPORT

A person who is required to make a report regarding suspected or threatened child abuse or neglect, must immediately inform, by telephone or in person, either the county department of social services or, in Milwaukee County, the Department of Children and Families (DCF) or a licensed child welfare agency contracted by DCF, or a law enforcement agency (county sheriff or city, village, or town police department). The reporter must relay the facts and circumstances that prompted the report.

GOVERNMENT AGENCY RESPONSE

A law enforcement agency that receives a report must refer a case involving a caregiver to the social services agency. If a social services agency receives a report of sexual abuse, it must notify the law enforcement agency, and the two agencies coordinate the investigation of the report.

The social services agency evaluates the report, which may require an investigation to determine whether the child is in need of protection or services. If an investigator determines that the child's best interests in terms of physical safety and health warrants it, the child may be taken into custody for immediate protection. If the child is in need of services, appropriate services are offered, and if refused, a petition may be filed with the juvenile court

alleging that the child is in need of protection or services.

The agency must determine whether abuse or neglect has occurred or is likely to occur. If the agency determines that a specific person has abused or neglected the child, that person may appeal that determination under procedures promulgated by DCF by rule.

An agency that receives a report of an incident involving death or serious injury or egregious abuse or neglect of a child, including an incident involving significant violence, torture, or other aggravated circumstances must report the incident to DCF, which reviews the incident and makes available to the public a report of the incident, the actions taken in response to the incident, and any changes in policy made or recommended as a result of the incident.

PENALTIES FOR FAILURE TO REPORT

If a person who is required to make a report fails to do so, he or she may be fined not more than \$1,000 or imprisoned not more than six months, or both.

EMPLOYMENT PROTECTION, CONFIDENTIALITY, AND IMMUNITY

A person making a report in good faith may not be discharged from employment, disciplined, or otherwise discriminated against in regard to employment or threatened with such treatment. Prior to 2011 Act 81, a reporter was protected only from discharge.

All reports and records are confidential and may generally only be shared with courts, prosecutors, law enforcement agencies, social service agencies, and other interested persons. In addition, the reporter may request information regarding what action, if any, was taken to protect the health and welfare of the subject of the report.

Finally, any person or institution participating in good faith in the reporting or investigation process has immunity from any civil and criminal liability.