

Mandated Reporting for Child Abuse and Neglect

The State of Wisconsin requires individuals who work in certain professions to report child abuse and neglect. With some exceptions, any of the following individuals who “has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur” shall report as described below. See Wis. Stat. sec. 48.981(2) (a). Every new instance of child abuse or neglect must be reported. Reporters are protected from discharge for reporting child abuse. Reports must be made to law enforcement or either the child welfare agency or child protective services agency. LE must refer all reports to CPS or CWA agencies within 12 hours. CPS or CWA agencies must refer reports of sexual abuse to LE within 12 hours and must also develop a policy regarding referrals for other types of abuse. These agencies are required to collaborate with each other when investigating sexual abuse.

WHO MUST REPORT?

Wis. Stat. 48.981(2)(a) lists the following individuals as mandatory reporters:

<ul style="list-style-type: none"> • acupuncturist • alcohol or other drug abuse counselor • audiologist • child care provider • child care worker in a child care center, group home, or residential care center for children and youth • chiropractor • clergy • coroner • court appointed special advocate • dentist • dietician • emergency medical technician • first responder • marriage and family therapist • mediator • medical examiner 	<ul style="list-style-type: none"> • medical or mental health professional • member of treatment staff employed by or working under contract with a county department or a residential care center for children and youth • nurse • occupational therapist • optometrist • physical therapist and PT assistant • physician • police or law enforcement • professional counselor • public assistance worker, including a financial and employment planner • school teacher, school administrator, school counselor, or any school employee • social worker • speech-language pathologist
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WHAT IS REPORTABLE CHILD ABUSE OR NEGLECT?

Wis. Stat. sec. 48.02(1)

- Physical abuse inflicted on a child by other than accidental means or, when used in referring to an unborn child, 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 of the unborn child in the use of alcohol beverages, controlled substances, or controlled substance analogs, exhibited to a severe degree

- **Sexual abuse**, defined as:
 - Sexual intercourse or sexual contact under s. 940.225, 948.02, 948.025, or 948.085 (sexual assault, sexual assault of a child, repeated acts of sexual assault of the same child, or sexual assault of a child in substitute care)
 - 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
 - Exposing genitals or pubic area
- Emotional damage for which the child's parent, guardian, or legal custodian has neglected, refused, or been unable for reasons other than poverty to obtain the necessary treatment or to take steps to ameliorate the symptoms.
- Neglect is the "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." Wis. Stat. sec. 48.02(12g).

It is important to note that sexual intercourse with a child sixteen (16) or over is not reportable abuse. However, sexual assault under Wis. Stat. sec. 940.225 is included as abuse. This means that sexual activity involving a child age sixteen or seventeen (16 or 17) need not be reported as abuse unless the reporter has reason to believe that the activity was not consensual and voluntary. See <https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/rfsaa.pdf>

EXCEPTIONS TO REPORTING REQUIREMENTS:

48.981 (2m)

The State of Wisconsin carved out an exception to reporting requirements to allow children to obtain confidential health care services. Health care services means family planning services as defined by law, pregnancy testing, obstetrical health care or screening, and diagnosis or treatment for a sexually transmitted infection. Health care providers for purposes of this exception include physicians, physician assistants, and registered or licensed nurses.

The exception applies when one of these persons provides a health care service to a child or when a mandatory reporter obtains information about a child who is receiving or has received health care services from one of these persons. This exception is not absolute, however. A report is required in spite of the exception whenever the health care provider suspects any of the following:

- That the sexual intercourse or sexual contact occurred or is likely to occur with a caregiver
 - That the child suffered or suffers from a mental illness or mental deficiency that rendered or renders the child temporarily or permanently incapable of understanding or evaluating the consequences of his or her actions
 - That the child, because of age/immaturity, was or is incapable of understanding the nature or consequences of sexual intercourse or sexual contact
 - That another participant in the sexual contact or sexual intercourse was or is exploiting the child
 - That there is any reasonable doubt as to the voluntariness of the child's participation in the sexual contact or sexual intercourse
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CLERGY MANDATORY REPORTING PROVISIONS

As of May 1, 2004, clergy are mandatory reporters of child sexual abuse. Under these provisions, a report is required if a clergyperson has reasonable cause to suspect that a child seen in the course of the clergyperson's professional duties was sexually abused or was threatened with sexual abuse and sexual abuse is likely to occur. A report is also required if the clergyperson has reasonable cause to believe, based on observations or information that he or she receives that another member of the clergy has abused a child or threatened to abuse a child. However, "[a] member of the clergy is not required to report child abuse information . . . that he or she receives solely through confidential communications made to him or her privately or in a confessional setting if he or she is authorized to hear or is accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or is expected to keep those communications secret. Those disciplines, tenets, or traditions need not be in writing." Wis. Stat. sec. 49.981(2)(bm)(3).

ARE STAFF AT SEXUAL ASSAULT SERVICES PROVIDERS OF MANDATORY REPORTERS?

Under Wisconsin law, staff of sexual assault service providers (SASP) are not mandatory reporters. However, individuals who work at these agencies may be mandated reporters due to their profession.

For information on mandatory reporting of elder and adult at risk abuse, please see WCASA's fact sheet. Additionally, see WCASA's fact sheets on sexual assault laws, child sexual assault laws, child pornography laws and the WCASA Information Sheet on teens for more information on those subjects.

WCASA is a membership agency comprised of organizations and individuals working to end sexual violence in Wisconsin. Among these are the 56 sexual assault service provider (SASP) agencies throughout the state that offer support, advocacy and information to victims of sexual assault and their families. For information sheets on other topics and for more information about sexual assault, please visit our website. This sheet may be reproduced in its original format only.

This information does not constitute legal advice.

Please note that this is an abridged information sheet; the statutes have not been printed in their entirety due to space restrictions.