

 WRAPAROUND MILWAUKEE Policy & Procedure	Date Issued: 6/12/01	Reviewed: 5/20/11 By: MG Last Revision: 5/20/11	Section: ADMINISTRATION	Policy No: 034	Pages: 1 of 1 (2 Attachments)
	<input checked="" type="checkbox"/> Wraparound <input checked="" type="checkbox"/> Wraparound-REACH <input checked="" type="checkbox"/> FISS <input checked="" type="checkbox"/> Project O-Yeah	Effective Date: 1/1/12	Subject: MANDATORY REPORTING		

I. POLICY

According to Wisconsin Statute [48.978\(2\)\(a\)](#), Wraparound Milwaukee / REACH Care Coordinators, [FISS Case Managers](#) and [O-YEAH Transition Specialists](#) are considered to be Mandatory Reporters. [If the Care Coordinator, Case Manager or Transition Specialist has reasonable cause to suspect \(either through observation, child's self report or other parties' report\) that a child seen by the person in the course of professional duties has been abused or neglected, has been threatened with abuse or neglect and that abuse or neglect of the child will occur, shall report that immediately to the Bureau of Milwaukee Child Welfare \(see Attachment 1 – Mandatory Reporting of Child Abuse & Neglect and Attachment 2 – Wis. Statute 48.978\(2\)\(a\) Children's Code\).](#)

II. PROCEDURE

- A. The Wraparound Milwaukee / REACH Care Coordinator should discuss his/her role as a Mandatory Reporter with all families upon enrollment.
- B. The Care Coordinator **must report suspected, reported or observed neglect and/or physical, sexual and emotional abuse by calling 220-SAFE (7233) and the police immediately.**
- C. The Care Coordinator must report suspected, reported or observed abuse that occurs in any setting (i.e., home, treatment foster care, group care, residential, school or community) even if that facility/agency indicates they have reported the incident or are investigating it.
- D. The Care Coordinator should inform the family of his/her intention to make a referral as soon as possible. The Care Coordinator should explain the process and potential investigation.
- E. The Care Coordinator must complete and submit a Critical Incident Report form (*see Policy #014 – Critical Incident Reporting*) **within 24 hours of the incident** (when abuse has been reported or observed), as well as a Progress Note.

Reviewed & Approved by: 
Bruce Kamradt, Director



Mandatory Reporting of Child Abuse & 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” must 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, the child welfare agency (CWA), or child protective services (CPS) agency. Law enforcement must refer all reports to CWA or CPS agencies within 12 hours. CWA or CPS agencies must refer reports of sexual abuse to law enforcement 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)1 lists the following individuals as mandated reporters:

- Physician
- Coroner
- Medical examiner
- Nurse
- Dentist
- Chiropractor
- Optometrist
- Occupational therapist
- Dietician
- Audiologist
- Acupuncturist
- Physical therapist & PT assistant
- Alcohol or other drug abuse counselor
- Medical or mental health professional
- Social worker
- Mediator under s. 767.11
- First responder
- Public assistance worker, including a financial and employment planner, as defined in s. 49.141(1)(d)
- Member of the treatment staff employed by or working under contract with a county department under s. 46.26, 51.42, or 51.437
- Marriage and family therapist
- Professional counselor
- Day care provider
- Speech-language pathologist
- Emergency medical technician
- Court appointed special advocate
- Police or law enforcement officer
- Child care worker in a day care center, group home as described in s. 48.625(1m), or residential care center for children and youth
- School teacher, school administrator, school counselor
- Clergy (See section below.)

What is Reportable Child Abuse? Wis. Stat. sec. 48.02(1)

- *Physical abuse* inflicted on a child by non-accidental means, serious physical harm inflicted on an unborn child, and the risk of serious physical harm to a child when born, caused by the habitual lack of self-control of the expectant mother in the use of alcoholic 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, or 948.025 (sexual assault, sexual assault of a child, and repeated acts of sexual assault of the same child)
 - Sexual exploitation of a child
 - Causing a child to view or listen to sexual activity
 - Permitting, allowing, or encouraging a child to engage in prostitution
 - 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 relieve 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. 48.981(1)(d)].

Notably, acts that would constitute the crime of sexual intercourse with a child age 16 or over are not reportable abuse, but acts that would constitute sexual assault under Wis. Stat. sec. 940.225 are reportable child abuse. Wis. Stat. sec. 940.225 describes the acts of sexual contact or intercourse with another person without consent, with a person incapable of giving consent, or between people in certain relationships, such as inmate-guard.

Exceptions to Reporting Requirements: Wis. Stat. sec. 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. For purposes of this exception, health care providers 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. However, this exception is not absolute. A report is required in spite of the exception whenever the health care provider suspects any of the following:

- The sexual intercourse or sexual contact occurred or is likely to occur with a caregiver.
- 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.
- The child, because of age/immaturity, was or is incapable of understanding the nature or consequences of sexual intercourse or sexual contact.
- 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 sexual contact.
- Another participant in the sexual contact or sexual intercourse was or is exploiting the child.
- There is any reasonable doubt that the child’s participation in the sexual contact or intercourse was voluntary.

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. Further, a report is also required if a clergyperson has reasonable cause to believe, “based on observations made or information that he or she receives,” that a child has been sexually abused or has been threatened with sexual abuse and sexual abuse is likely to occur. 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 Service Provider Agencies Mandated Reporters?

Under Wisconsin law, staff of sexual assault service provider (SASP) agencies are not mandated reporters. However, individuals who work at these agencies may be mandated reporters due to their profession, such as licensed social workers, etc. Many agencies, through agency policy or due to grant requirements, have adopted these reporting guidelines for all staff. A minor concerned about mandatory reporting and seeking services at a SASP should ask for a copy of the agency's reporting policy.

For further information, see WCASA's information sheets on sexual assault laws, child sexual assault laws, child pornography laws, and the WCASA information sheet on teens.

This information sheet was compiled in 2004 by the Wisconsin Coalition Against Sexual Assault (WCASA). WCASA is a membership organization of sexual assault service providers, other organizations, and individuals throughout Wisconsin working to end sexual violence. For information sheets on other topics or to become a member contact WCASA, 600 Williamson St., Suite N-2, Madison, WI 53703, (608)257-1516, www.wcasa.org. For more information about sexual assault or to receive support with a sexual assault experience, contact your local sexual assault program. This sheet may be reproduced in its original format only. This information does not constitute legal advice.

SUBCHAPTER XX

MISCELLANEOUS PROVISIONS

48.98 Interstate placement of children. (1) No person may bring a child into this state or send a child out of this state for the purpose of placing the child in foster care or for the purpose of adoption without a certificate from the department that the home is suitable for the child.

(2) (a) Any person, except a county department or licensed child welfare agency, who brings a child into this state for the purpose of placing the child in a foster home shall, before the child's arrival in this state, file with the department a \$1,000 noncancelable bond in favor of this state, furnished by a surety company licensed to do business in this state. The condition of the bond shall be that the child will not become dependent on public funds for his or her primary support before the child reaches age 18 or is adopted.

(b) By filing the bond required under par. (a), the person filing the bond and the surety submit to the jurisdiction of the court in the county in which the person resides for purposes of liability on the bond, and appoint the clerk of the court as their agent upon whom any papers affecting their bond liability may be served.

(c) If upon affidavit of the department it appears to the court that the condition of the bond has been violated, the court shall order the person who filed the bond and the surety to show cause why judgment on the bond should not be entered for the department. If neither the person nor the surety appears for the hearing on the order to show cause, or if the court concludes after the hearing that the condition of the bond has been violated, the court shall enter judgment on the bond for the department against the person who filed the bond and the surety.

(d) The department shall periodically bill the person who filed the bond and the surety under s. 49.32 (1) (b) or 49.345 for the cost of care and maintenance of the child until the child is adopted or becomes age 18, whichever is earlier. The guardian and surety shall also be liable under the bond for costs incurred by the department in enforcing the bond.

(e) The department may waive the bond requirement under par. (a).

(3) The person bringing or sending the child into or out of this state shall report to the department, at least once each year and at any other time required by the department, concerning the location and well-being of the child, until the child is 18 years of age or is adopted.

(4) (a) This section applies only to interstate placements of children that are not governed by s. 48.988 or 48.99.

(b) Section 48.839 governs the placement of children who are not U.S. citizens and not under agency guardianship who are brought into this state from a foreign jurisdiction for the purpose of adoption.

(5) The department may promulgate all rules necessary for the enforcement of this section.

History: 1977 c. 354; 1979 c. 32 s. 92 (1); 1981 c. 81; 1985 a. 176; 1985 a. 332 s. 251 (5); 1993 a. 446; 2007 a. 20; 2009 a. 28, 339.

48.981 Abused or neglected children and abused unborn children. (1) DEFINITIONS. In this section:

(ag) "Agency" means a county department, the department in a county having a population of 500,000 or more or a licensed child welfare agency under contract with a county department or the department in a county having a population of 500,000 or more to perform investigations under this section.

(am) "Caregiver" means, with respect to a child who is the victim or alleged victim of abuse or neglect or who is threatened with abuse or neglect, any of the following persons:

1. The child's parent, grandparent, greatgrandparent, stepparent, brother, sister, stepbrother, stepsister, half brother, or half sister.

2. The child's guardian.
3. The child's legal custodian.
4. A person who resides or has resided regularly or intermittently in the same dwelling as the child.

5. An employee of a residential facility or residential care center for children and youth in which the child was or is placed.

6. A person who provides or has provided care for the child in or outside of the child's home.

7. Any other person who exercises or has exercised temporary or permanent control over the child or who temporarily or permanently supervises or has supervised the child.

8. Any relative of the child other than a relative specified in subd. 1.

(b) "Community placement" means probation; extended supervision; parole; aftercare; conditional transfer into the community under s. 51.35 (1); conditional transfer or discharge under s. 51.37 (9); placement in a Type 2 residential care center for children and youth or a Type 2 juvenile correctional facility authorized under s. 938.539 (5); conditional release under s. 971.17; supervised release under s. 980.06 or 980.08; participation in the community residential confinement program under s. 301.046, the intensive sanctions program under s. 301.048, the corrective sanctions program under s. 938.533, the intensive supervision program under s. 938.534, or the serious juvenile offender program under s. 938.538; or any other placement of an adult or juvenile offender in the community under the custody or supervision of the department of corrections, the department of health services, a county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437 or any other person under contract with the department of corrections, the department of health services or a county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437 to exercise custody or supervision over the offender.

(c) "Indian unborn child" means an unborn child who, when born, may be eligible for affiliation with an Indian tribe in any of the following ways:

1. As a member of the Indian tribe.
2. As a person who is eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.

(cv) "Member of a religious order" means an individual who has taken vows devoting himself or herself to religious or spiritual principles and who is authorized or appointed by his or her religious order or organization to provide spiritual or religious advice or service.

(cx) "Member of the clergy" has the meaning given in s. 765.002 (1) or means a member of a religious order, and includes brothers, ministers, monks, nuns, priests, rabbis, and sisters.

(f) "Record" means any document relating to the investigation, assessment and disposition of a report under this section.

(g) "Reporter" means a person who reports suspected abuse or neglect or a belief that abuse or neglect will occur under this section.

(h) "Subject" means a person or unborn child named in a report or record as any of the following:

1. A child who is the victim or alleged victim of abuse or neglect or who is threatened with abuse or neglect.

1m. An unborn child who is the victim or alleged victim of abuse or who is at substantial risk of abuse.

2. A person who is suspected of abuse or neglect or who has been determined to have abused or neglected a child or to have abused an unborn child.

(i) "Tribal agent" means the person designated under 25 CFR 23.12 by an Indian tribe to receive notice of involuntary child custody proceedings under the federal Indian Child Welfare Act, 25 USC 1901 to 1963.

(2) PERSONS REQUIRED TO REPORT. (a) Any of the following persons 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, except as provided under sub. (2m), report as provided in sub. (3):

1. A physician.
2. A coroner.
3. A medical examiner.
4. A nurse.
5. A dentist.
6. A chiropractor.
7. An optometrist.
8. An acupuncturist.
9. A medical or mental health professional not otherwise specified in this paragraph.
10. A social worker.
11. A marriage and family therapist.
12. A professional counselor.
13. A public assistance worker, including a financial and employment planner, as defined in s. 49.141 (1) (d).
14. A school teacher.
15. A school administrator.
16. A school counselor.
17. A mediator under s. 767.405.
18. A child care worker in a child care center, group home, or residential care center for children and youth.
19. A child care provider.
20. An alcohol or other drug abuse counselor.
21. A member of the treatment staff employed by or working under contract with a county department under s. 46.23, 51.42, or 51.437 or a residential care center for children and youth.
22. A physical therapist.
- 22m. A physical therapist assistant.
23. An occupational therapist.
24. A dietitian.
25. A speech–language pathologist.
26. An audiologist.
27. An emergency medical technician.
28. A first responder.
29. A police or law enforcement officer.

(b) A court–appointed special advocate who has reasonable cause to suspect that a child seen in the course of activities under s. 48.236 (3) has been abused or neglected or who has reason to believe that a child seen in the course of those activities has been threatened with abuse and neglect and that abuse or neglect of the child will occur shall, except as provided in sub. (2m), report as provided in sub. (3).

(bm) 1. Except as provided in subd. 3. and sub. (2m), a member of the clergy shall report as provided in sub. (3) if the member of the clergy has reasonable cause to suspect that a child seen by the member of the clergy in the course of his or her professional duties:

- a. Has been abused, as defined in s. 48.02 (1) (b) to (f); or
 - b. Has been threatened with abuse, as defined in s. 48.02 (1) (b) to (f), and abuse of the child will likely occur.
2. Except as provided in subd. 3. and sub. (2m), a member of the clergy shall report as provided in sub. (3) if the member of the clergy has reasonable cause, based on observations made or information that he or she receives, to suspect that a member of the clergy has done any of the following:
- a. Abused a child, as defined in s. 48.02 (1) (b) to (f).
 - b. Threatened a child with abuse, as defined in s. 48.02 (1) (b) to (f), and abuse of the child will likely occur.

3. A member of the clergy is not required to report child abuse information under subd. 1. or 2. 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.

(c) Any person not otherwise specified in par. (a), (b), or (bm), including an attorney, who has reason to suspect that a child has been abused or neglected or who has reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may report as provided in sub. (3).

(d) Any person, including an attorney, who has reason to suspect that an unborn child has been abused or who has reason to believe that an unborn child is at substantial risk of abuse may report as provided in sub. (3).

(e) No person making a report under this subsection may be discharged from employment for so doing.

(2m) EXCEPTION TO REPORTING REQUIREMENT. (a) The purpose of this subsection is to allow children to obtain confidential health care services.

(b) In this subsection:

1. “Health care provider” means a physician, as defined under s. 448.01 (5), a physician assistant, as defined under s. 448.01 (6), or a nurse holding a certificate of registration under s. 441.06 (1) or a license under s. 441.10 (3).

2. “Health care service” means family planning services, as defined in s. 253.07 (1) (b), 1995 stats., pregnancy testing, obstetrical health care or screening, diagnosis and treatment for a sexually transmitted disease.

(c) Except as provided under pars. (d) and (e), the following persons are not required to report as suspected or threatened abuse, as defined in s. 48.02 (1) (b), sexual intercourse or sexual contact involving a child:

1. A health care provider who provides any health care service to a child.
4. A person who obtains information about a child who is receiving or has received health care services from a health care provider.

(d) Any person described under par. (c) 1. or 4. shall report as required under sub. (2) if he or she has reason to suspect any of the following:

1. That the sexual intercourse or sexual contact occurred or is likely to occur with a caregiver.
2. 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.
3. That the child, because of his or her age or immaturity, was or is incapable of understanding the nature or consequences of sexual intercourse or sexual contact.
4. That 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 sexual contact.
5. That another participant in the sexual contact or sexual intercourse was or is exploiting the child.

(e) In addition to the reporting requirements under par. (d), a person described under par. (c) 1. or 4. shall report as required under sub. (2) if he or she has any reasonable doubt as to the voluntariness of the child’s participation in the sexual contact or sexual intercourse.

(3) REPORTS; INVESTIGATION. (a) *Referral of report.* 1. A person required to report under sub. (2) shall immediately inform, by telephone or personally, the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department or the sheriff or city, village, or town police department of the facts