

# Children & Youth Advocate Manual

## Section 5: Mandatory Reporting



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### Introduction & Importance

Understanding the dynamics of child abuse, neglect, and sexual abuse is critical for advocates working with children from violent homes. 40% to 60% of abusers also abuse their children. One in ten children will be sexually abused before their eighteenth birthday. Protective caregivers that HAVE experienced abuse are more likely to abuse their children than protective caregivers that have NOT experienced abuse. Child abuse can be used as a method of holding power and control over the protective caregiver receiving the abuse.

### Explaining Mandatory Reporting

Our society has a stake in protecting children from abuse and neglect because the consequences of failing to do so are serious – for the children and for society. Specific governmental authorities have been given the legal responsibility to intervene when there is reasonable cause to suspect maltreatment, and government and community services are available to help the child and family if needed.

But first the children in need of protection must be identified and brought to the attention of the designated authorities. That is the role of reporters: to refer children who may need protection.

Certain persons are required to report because their job functions bring them into contact with children, or otherwise obtain information about child abuse or threats of the same. Mandated reporters are in a unique position to connect endangered children and their families to necessary protections and services. In some instances, a report can mean the difference between life and death for a child. For additional information checkout this fact sheet: [Mandatory Reporters of Child Abuse and Neglect](#).

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### Mandatory Reporting

Due to the nature of domestic violence, intimate partner violence, and sexual assault, it is important for all advocates to understand what mandatory reporting is and how it has the potential to help you, as well as frustrate you. **LEGALLY, IN WISCONSIN, DOMESTIC VIOLENCE AND SEXUAL ASSAULT ADVOCATES ARE NOT MANDATORY REPORTERS.** However, funders may have agencies address child abuse reporting. For example; the Department of Children and Families (DCF) requires programs, who receive their children's program funding, to have a Child Abuse and Neglect (CAN) process and policy. Check with your director as to what you are required to do for CAN. Please **ALWAYS** follow your agencies policies and **NEVER** make the decision to report child abuse or neglect alone.

All states in the United States and most nations around the world have legally mandated reporter laws that require a responsible adult to promptly report the abuse to the proper authorities. WI law states a **LEGALLY** mandated reporter must report **IF** they have reasonable cause to **SUSPECT** or **BELIEVE** a child seen in the course of **THEIR PROFESSIONAL DUTIES** has been threatened with or has been abused or neglected. If you are not a legally mandated reporter of Child Abuse and Neglect, please review your agency policies and follow as instructed.

When working with schools or other agencies ask about their mandated reporting statutes and policies. If you are not a legally mandated, please follow your agencies policies and procedures. If you are a legally mandated reporter, reports of alleged child abuse or neglect should be made to the county where the child or the child's family resides. Contact the county department of social and/or human services or law enforcement, where appropriate.

It is important to immediately let the family know that you are a mandated reporter in order to build and maintain their trust. Explain to the family the types of information you would need to report by giving examples. If the youth requests someone to talk to who is not a mandated reporter; be prepared to provide appropriate resources.

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***NOTE:** Before an incident occurs, it is strongly recommended that advocates reach out to their local CPS agencies to receive appropriate responses and actions that will happen in hypothetical situations. That way advocates will have accurate information to give to clients if a situation does arise.*

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### Mandatory Reporting in Bordering States

Please review the [Boarding States Mandatory Reporting Laws](#) document if you would like to understand how the states that boarder Wisconsin differ in reporting suspect. Make sure that you contact the state's social service agencies as laws and policies change. Since we are state based, the attorneys and lawyers that reviewed this section are unfamiliar with the mandatory reporting policies in the bordering states. You can also check the Child Information Gateway [State Statute Search](#) to help you identify and understand any of the United States statutes based on child abuse and neglect, child welfare, and adoption.

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### Confidentiality with Mandatory Reporting

#### **ALWAYS MAKE SURE THAT YOU ARE FOLLOWING YOUR AGENCIES' CHILD ABUSE & NEGLECT REPORTING AND CONFIDENTIALITY POLICIES.**

According to Wisconsin State Statute 48.981(7) Confidentiality: all reports made under this section and records maintained by an agency and other persons, officials, and institutions shall be confidential.

- Reports and records may be disclosed only to the persons listed under 48.981(7) 1-17.
  - However, in some instances, the record or report may not disclose any information that would identify the reporter.

### Information to share in your report

- Information from child's records may be shared for the purposes of making a report.
- Information may be shared to protect someone's health or safety.
- For more information about this topic go to: [wicourts.gov/courts/programs/docs/ccipwcpconfiguide.pdf](http://wicourts.gov/courts/programs/docs/ccipwcpconfiguide.pdf)

### Mandatory Reporting Sample Language

"We are going to be talking about experiences with Teen Dating Violence and Sexual Assault. There are different laws meant to protect children and teens from being abused and neglected. Because I care about all of you, I want to make sure that you are all aware of what mandatory reporting is. Has anyone heard of mandatory reporting?"

(Lead discussion and brief Q&A) Does anyone have any questions about this? If so, feel free to stop me at any time during this group, or find me during one of the breaks, and I'd be happy to clear up any questions you have."

"I am more than willing to listen to anything you would like to share. Your confidentiality is important to me. I will try to make sure that anything you tell me is not shared without your permission; however, there are some exceptions. I may be required to report child abuse or neglect. Also, if I'm very concerned about your safety, I may need to tell another adult or someone who can better help you. Before I tell someone, I will make every effort to talk to you first to let you know that I am going to tell someone. If at any point you have questions, you can always ask me. What questions do you have about mandatory reporting?"

If you **are** a legally mandatory reporter outside of your role at the agency discuss with your director or supervisor about how you should provide services to clients. Below is some sample language to have that conversation.

"I am a mandated reporter under state law. This state law is set up to help families, not punish them. I know you care about your family and do not want to have any problems with your child. You are trying hard, and you could use some support. I am required by law to call child protective services in [insert situation]. We can use the CPS person as a resource because they want to help you get the services you need."

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### Questions and Responses About Mandatory Reporting Possible

The following responses are from Wisconsin statutes and laws for other states refer to the links in the resource section at the end of this section.

What is Mandatory Reporting?

- Calling child protective services or law enforcement to report abuse or neglect of a child.

What kinds of things does a mandatory reporter have to report?

- Child abuse and neglect, a threat of child abuse and/or neglect that the reporter believes will result in abuse or neglect.

Who does the mandatory reporter make the report to?

- Contact Child Protective Services, known as CPS, or law enforcement. In appropriate cases, you may call Indian Child Welfare.

Under what time frame are mandatory reporters required to report under the law?

- You are required to report child abuse and neglect immediately.

Are Mandatory reporters required to report if someone else already reported?

- No, only one legally mandated reporter within an agency is required to report the same incident of abuse.

Who is considered a child under the law?

- Anyone under the age of 18 is considered a child.

How would a teen know if someone is a mandated reporter?

- Ask that person if they are LEGALLY mandated to report under Wisconsin laws and/or if they consider themselves a permissive/voluntary reporter.
  - If the person says yes to either of these questions, that person will report suspected child abuse or neglect, or a credible threat of child abuse or neglect.

If someone is NOT a LEGALLY mandated reporter can they still, make a report?

- Yes, even if someone is not a LEGALLY mandated reporter, they MAY still choose to report suspected child abuse or neglect as a permissive reporter.

What is a voluntary reporter?

- Any person, not specified under [Wis Stat. 48.981 par.\(2\) \(a\); \(b\); or \(bm\)](#), 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 to appropriate authorities.

Can I report anonymously?

- Yes. Anyone can, but there are a few things to consider:
  - You won't be able to get updates about the report you made.
  - The CPS or law enforcement agency will be unable to contact you for more information they may need.

Am I liable if I make a report and it is not substantiated?

- No. Those persons making a report in good faith are protected from liability.

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What are the penalties for MANDATED reporters who do not make a report?

- A person who is required to report child abuse and who fails to do so has committed a crime; it is also possible that their professional license or certification could be affected.
  - In Wisconsin, that person may be fined up to \$1,000 or imprisoned for up to 6 months or both (s. 48.981).

If I believe that other professionals involved with a family may have already reported, do I still need to make a report if I suspect maltreatment?

- It is not a good idea to assume that someone else has made a report.
  - Consider the possible tragic consequences for a maltreated child if all potential reporters assume that someone else has reported.
  - Even if someone has, you could have information that the other person did not know and did not report.
- A mandated reporter has an *individual* responsibility to report if they suspect maltreatment.
- That doesn't prevent you from making a joint report with someone else in your agency, if you both suspect maltreatment of a specific child or children.

What if I suspect that a child has been maltreated but have a good relationship with the family and believe I can give them the help they need without reporting? Can't I try to help them first, and then report only if they don't respond to my help?

- If you are a MANDATED reporter and you suspect maltreatment, you must immediately report. There are no exceptions, other than those specified in the law.

What if I think I don't have enough information to make a report?

- It is always best to err on the side of protecting the child.
- The agency you are reporting to will help determine if there is enough information to proceed.
  - If there is not, the report remains on file.
  - If you receive additional information you can always call back and add to the report.
  - If additional reports are made for that same child, then sometimes, multiple reports can lead to an investigation.

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### Protective Parents Reporting to Child Protective Services (CPS)

Here is some sample language to use with protective caregivers to help them understand what is being asked of them by CPS.

If a CPS social worker is contacting you, it means that they have received a report that your child may have been abused or neglected – or is at risk of abuse or neglect. It is their duty to investigate all reports of suspected child abuse or neglect.

The social worker will talk to you (as the protective caregiver), your children, and others living in your home. The social worker may also contact people who know you and your children; such as doctors, teachers, babysitters, relative, and neighbors. Although this process can be frustrating or scary, the best way to protect your child is by cooperating with their investigation. Even if you do not cooperate, they must still investigate the report.

CPS' ultimate goal is to keep families together whenever possible. The social worker may be able to help you get services so your children can stay with you. However, CPS has the legal responsibility to protect children from abuse and neglect. Sometimes, when CPS makes the decision that a home is not safe, then they will remove children to places CPS consider safe.

Usually, CPS workers will gather information within 30 days from the date they received a report. The social worker will gather information and prepare a written document with their findings. CPS will send you a letter explaining what they found. If they find the child was not abused or neglected, CPS will usually not stay involved with your family unless you ask for their help.

### Your rights when CPS gets involved with your family

- Be treated with respect and courtesy.
- Privacy; under the law, CPS cannot give information about your family or your case to the public.
- Know what's going on and to get clear, honest answers to your questions.
- Have an attorney with you at any time.
- Information about other ways to get the help you need if CPS cannot help your family.
- You may refuse to take part in their investigation.
  - However, CPS may seek help from the police or court.

### Responsibilities you have when CPS gets involved with your family

- Tell the truth to the best of your ability.
- Ask questions.
  - About the process (who to contact, where to send information, deadlines, etc.).
  - About services for you or your children.
  - About services to keep the children with you.
  - About next steps.
- Cooperate as best as possible with the social worker.
- Follow your case plan and take part in required services as best as you are able.
  - If there are barriers to completing your case plan or attending required services, talk with the social worker about modifying the case plan or attending alternative services that will help you be successful.
- Attend meetings about your case, including court hearings when the court is involved.

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### Parenting Undermined

Often abusers threaten to call CPS on the protected caregiver. Domestic abuse programs may inadvertently perpetuate this perceived problem by calling CPS on the protected caregiver. In some ways calling CPS validates the fears a protected caregiver had all along about CPS. That fear is real and legitimate for the protected caregiver even if a youth advocate never calls CPS. Making a report to CPS will always run the risk of potentially increasing the violence.

It is understandable for protective caregivers feel upset when they have been falsely accused of child abuse or neglect. The reason CPS reaches out to families because some caregivers are not falsely accused and often use intimidation or coaching as a means of power and control over their children. Just because a protective caregiver is being reported does not mean they are guilty. CPS Investigators do not assume the protective caregiver perpetrated the abuse or neglect when they receive the report.

There are systems in place to keep protective caregivers from being harassed by a reporter or by CPS. For example, let's say a protective caregiver has been reported for physical abuse of their child and the protective caregiver completed an investigation. If the same reporter calls in with the same allegations a week later, with no new incident to report, the investigation may be closed without the protective caregiver even knowing it was reported.

If there are new allegations, the case may be investigated again. If this occurs, say, four times, and no evidence is found, the CPS investigators can start to close these reports without investigations. However, it is important to know that it does not always happen this way, and the protected caregiver may be investigated for the same type of allegation from the same report many times.

CPS is required to investigate any and all claims that are made. Even if the child, parents, witnesses, and other unrelated persons insist that something did not occur, the case must still be completed. The CPS investigator sets out to find the truth about what happened. Tell the CPS investigator why you think someone reported and what their motivation might have been. Investigators do consider this and want to hear it. False reporting is not addressed in Wisconsin statutes.

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### Resources

Child Welfare Information Gateway [Mandatory Reporters of Child Abuse and Neglect](#) a factsheet that explains the ins and outs of mandatory reporting.

Child Information Gateway [State Statute Search](#) will help you identify and understand Wisconsin's statutes based on child abuse and neglect, child welfare, and adoption.

[Wisconsin Department of Children and Families Mandated Child Abuse and Neglect Reporters](#) a resource that has more information about mandatory reporting from what is required to be reported, who is required to report, and how to report.

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*Please notify the LGBTQ & Youth Program Director, [Cody Warner](#), if **ANY** links are no longer working.*

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