

# MALTREATMENT OF MINORS MANDATED REPORTING AND INTERNAL REVIEW POLICY



## Policy

It is the policy of Living Well Disability Services to protect the children whose health or welfare may be jeopardized through physical abuse, neglect, or sexual abuse. Minors or children are those individuals under the age of 18 years old.

## Procedures

### A. Who should report child abuse and neglect

1. If you provide care to children served by this program, employees, consultants, and/or volunteers are legally required or mandated to report and cannot shift the responsibility of reporting to your supervisor or to anyone else at your licensed facility.
2. If an employees, consultants, and/or volunteers know or have reason to believe a child is being or has been neglected or physically or sexually abused within the preceding three years you must immediately make a report to an outside agency. Immediately means as soon as possible.

### B. Where to report

1. If you know or suspect that a child is in immediate danger, you must call 911.
2. All reports concerning suspected abuse or neglect of children occurring in homes owned and operated by Living Well Disability Services must be made to the Department of Human Services, Licensing Division's Maltreatment Intake line at (651) 431-6600.
3. Reports regarding incidents of suspected abuse or neglect of children occurring within a family or in the community (such as Customized Services for example) should be made to the local county social services agency at:

Anoka	763-422-7125
Dakota	952-891-7459                      After hours: 952-891-7171
Hennepin	612-348-3552
Isanti	763-689-1711
Ramsey	651-266-4500 (press 1)
Scott	952-445-7751                      After hours: 952-496-8484
Sherburne	763-765-4000
Washington	651-430-6457
Wright	763-682-7449

If your report does not involve possible abuse or neglect, but does involve possible violations of Minnesota Statutes or Rules that govern the facility, you should call the Department of Human Services, Licensing Division at (651) 431-6500.

### C. What to report

1. Definitions of maltreatment are contained in the Reporting of Maltreatment of Minors Act (Minnesota Statutes, section [626.556](#)) and are attached to this policy.
2. A report to any of the above agencies should contain enough information to identify the child involved, any persons responsible for the abuse or neglect (if known), and the nature and extent of the maltreatment and/or possible licensing violations. For reports concerning suspected abuse or neglect occurring within this program, the report should include any actions taken by this program in response to the incident.

3. An oral report of suspected abuse or neglect made to one of the above agencies by a mandated reporter must be followed by a written report to the same agency within 72 hours, exclusive of weekends and holidays.

D. Failure to report

A mandated reporter who knows or has reason to believe a child is or has been neglected or physically or sexually abused and fails to report is guilty of a misdemeanor. In addition, a mandated reporter who fails to report maltreatment that is found to be serious or recurring maltreatment may be disqualified from employment in positions allowing direct contact with persons receiving services from programs licensed by the Department of Human Services and by the Minnesota Department of Health, and unlicensed Personal Care Provider Organizations.

E. Retaliation prohibited

Living Well Disability Services, as employer of any mandated reporter, must not retaliate against the mandated reporter for reports made in good faith or against a child with respect to whom the report is made. The Reporting of Maltreatment of Minors Act contains specific provisions regarding civil actions that can be initiated by mandated reporters who believe that retaliation has occurred.

F. Internal review

1. When Living Well Disability Services has reason to know that an internal or external report of alleged or suspected maltreatment has been made, Living Well Disability Services must complete an internal review within 30 calendar days and take corrective action, if necessary, to protect the health and safety of children in care.
2. The internal review must include an evaluation of whether:
  - a. related policies and procedures were followed
  - b. the policies and procedures were adequate
  - c. there is a need for additional staff training
  - d. the reported event is similar to past events with the children or the services involved; and
  - e. there is a need for corrective action by the license holder to protect the health and safety of children in care.

G. Primary and secondary person or position to ensure internal reviews are completed  
The internal review will be completed by the Program Manager or designee.

If this individual is involved in the alleged or suspected maltreatment, the internal review will be completed by Regional Director or designee.

H. Documentation of the internal review

Living Well Disability Services must document completion of the internal review and provide documentation of the review to the commissioner upon the commissioner's request.

I. Corrective action plan

Based on the results of the internal review, Living Well Disability Services must develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals or the license holder, if any.

J. Staff Training

Living Well Disability Services must provide training to all staff related to the mandated reporting responsibilities as specified in the Reporting of Maltreatment of Minors Act (Minnesota Statutes, section 626.556). Living Well Disability Services must document the provision of this training in individual

personnel records, monitor implementation by staff, and ensure that the policy is readily accessible to staff, as specified under Minnesota Statutes, section [245A.04](#), subdivision 14.

Legal Authority: Minn. Stat. §§§§ [626.556](#); [245A.66](#); [245A.04](#); subd. 14, [245D.09](#); subd. 4 (5)

## Definitions.

As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. Family assessment does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

(b) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve substantial child endangerment, and for reports of maltreatment in facilities required to be licensed under chapter 245A or 245B; under sections [144.50](#) to [144.58](#) and [241.021](#); in a school as defined in sections [120A.05, subdivisions 9, 11, and 13,](#) and [124D.10](#); or in a nonlicensed personal care provider association as defined in sections [256B.04, subdivision 16,](#) and [256B.0625, subdivision 19a.](#)

(c) "Substantial child endangerment" means a person responsible for a child's care, and in the case of sexual abuse includes a person who has a significant relationship to the child as defined in section [609.341](#), or a person in a position of authority as defined in section [609.341](#), who by act or omission commits or attempts to commit an act against a child under their care that constitutes any of the following:

(1) egregious harm as defined in section [260C.007, subdivision 14](#);

(2) sexual abuse as defined in paragraph (d);

(3) abandonment under section [260C.301, subdivision 2](#);

(4) neglect as defined in paragraph (f), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(5) murder in the first, second, or third degree under section [609.185, 609.19,](#) or [609.195](#);

(6) manslaughter in the first or second degree under section [609.20](#) or [609.205](#);

(7) assault in the first, second, or third degree under section [609.221, 609.222,](#) or [609.223](#);

(8) solicitation, inducement, and promotion of prostitution under section [609.322](#);

(9) criminal sexual conduct under sections [609.342](#) to [609.3451](#);

(10) solicitation of children to engage in sexual conduct under section [609.352](#);

(11) malicious punishment or neglect or endangerment of a child under section [609.377](#) or [609.378](#);

(12) use of a minor in sexual performance under section [617.246](#); or

(13) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section [260C.503, subdivision 2.](#)

(d) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section [609.341](#), or by a person in a position of authority, as defined in section [609.341](#), subdivision 10, to any act which constitutes a violation of section [609.342](#) (criminal sexual conduct in the first degree), [609.343](#) (criminal sexual conduct in the second degree),

[609.344](#) (criminal sexual conduct in the third degree), [609.345](#) (criminal sexual conduct in the fourth degree), or [609.3451](#) (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections [609.321](#) to [609.324](#) or [617.246](#). Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation which requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

(e) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(f) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (9), other than by accidental means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections [120A.22](#) and [260C.163, subdivision 11](#), which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section [125A.091, subdivision 5](#);

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section [253B.02](#), subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance, or the presence of a fetal alcohol spectrum disorder;

(7) "medical neglect" as defined in section [260C.007, subdivision 6](#), clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(g) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section [121A.67](#) or [245.825](#).

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section [121A.582](#). Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

- (1) throwing, kicking, burning, biting, or cutting a child;
- (2) striking a child with a closed fist;
- (3) shaking a child under age three;
- (4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;
- (5) unreasonable interference with a child's breathing;
- (6) threatening a child with a weapon, as defined in section [609.02, subdivision 6](#);
- (7) striking a child under age one on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

(9) unreasonable physical confinement or restraint not permitted under section [609.379](#), including but not limited to tying, caging, or chaining; or

(10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section [121A.58](#).

(h) "Report" means any report received by the local welfare agency, police department, county sheriff, or agency responsible for assessing or investigating maltreatment pursuant to this section.

(i) "Facility" means:

(1) a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections [144.50](#) to [144.58](#), [241.021](#), or [245A.01](#) to [245A.16](#), or chapter 245D;

(2) a school as defined in sections [120A.05, subdivisions 9, 11, and 13](#); and [124D.10](#); or

(3) a nonlicensed personal care provider organization as defined in sections [256B.04](#), subdivision 16, and [256B.0625, subdivision 19a](#).

(j) "Operator" means an operator or agency as defined in section [245A.02](#).

(k) "Commissioner" means the commissioner of human services.

(l) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(m) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(n) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (e), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section [260C.007, subdivision 14](#), or a similar law of another jurisdiction;

(2) been found to be palpably unfit under section [260C.301](#), subdivision 1, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that has resulted in an involuntary termination of parental rights under section [260C.301](#), or a similar law of another jurisdiction; or

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under Minnesota Statutes 2010, section [260C.201, subdivision 11](#), paragraph (d), clause (1), section [260C.515, subdivision 4](#), or a similar law of another jurisdiction.

A child is the subject of a report of threatened injury when the responsible social services agency receives birth match data under paragraph (o) from the Department of Human Services.

(o) Upon receiving data under section [144.225, subdivision 2b](#), contained in a birth record or recognition of parentage identifying a child who is subject to threatened injury under paragraph (n), the Department of Human Services shall send the data to the responsible social services agency. The data is known as "birth match" data. Unless the responsible social services agency has already begun an investigation or assessment of the report due to the birth of the child or execution of the recognition of parentage and the parent's previous history with child protection, the agency shall accept the birth match data as a report under this section. The agency may use either a family assessment or investigation to determine whether the child is safe. All of the provisions of this section apply. If the child is determined to be safe, the agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section [260C.007, subdivision 6](#), clause (16), in order to deliver needed services. If the child is determined not to be safe, the agency and the county attorney shall take appropriate action as required under section [260C.503](#), subdivision 2.

(p) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety.

(q) "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:

(1) is not likely to occur and could not have been prevented by exercise of due care; and

(2) if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

(r) "Nonmaltreatment mistake" means:

(1) at the time of the incident, the individual was performing duties identified in the center's child care program plan required under Minnesota Rules, part 9503.0045;

(2) the individual has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years;

(3) the individual has not been determined to have committed a similar nonmaltreatment mistake under this paragraph for at least four years;

(4) any injury to a child resulting from the incident, if treated, is treated only with remedies that are available over the counter, whether ordered by a medical professional or not; and

(5) except for the period when the incident occurred, the facility and the individual providing services were both in compliance with all licensing requirements relevant to the incident.

This definition only applies to child care centers licensed under Minnesota Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated maltreatment by the individual, the commissioner of human services shall determine that a nonmaltreatment mistake was made by the individual.

### **Subd. 3. Persons mandated to report.**

(a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person is:

(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, correctional supervision, probation and correctional services, or law enforcement; or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section [595.02, subdivision 1](#), paragraph (c).

The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency, or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of every local welfare agency, agency responsible for assessing or investigating reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school, or agency.

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency or agency

responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections [144.50](#) to [144.58](#); [241.021](#); [245A.01](#) to [245A.16](#); or chapter 245D; or a nonlicensed personal care provider organization as defined in sections [256B.04, subdivision 16](#); and [256B.0625, subdivision 19](#). A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner of education. Section [13.03, subdivision 4](#), applies to data received by the commissioner of education from a licensing entity.

(d) Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) For purposes of this section, "immediately" means as soon as possible but in no event longer than 24 hours.