

W.S.A. 48.981



West's Wisconsin Statutes Annotated [Currentness](#)

Social Services

[Chapter 48](#). Children's Code ([Refs & Annos](#))

[Subchapter XX](#). Miscellaneous Provisions

→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.

<Text of subsec. (1)(b) eff. until July 1, 2008>

(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 child caring institution or a Type 2 secured 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 halfway house program under [s. 301.0465](#), 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 and family 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 and family 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.

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<Text of subsec. (1)(b) eff. July 1, 2008>

(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 child caring institution or a Type 2 secured 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 and family 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 and family 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.

(cs) "Indian child" means any unmarried person who is under the age of 18 years and is affiliated with an Indian tribe or band in any of the following ways:

1. As a member of the tribe or band.
2. As a person who is both eligible for membership in the tribe or band and is the biological child of a member of the tribe or band.

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

1. As a member of the tribe or band.
2. As a person who is both eligible for membership in the tribe or band and the biological child of a member of the tribe or band.

(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.

(d) "Neglect" means 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.

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

(fm) "Relative" means a parent, grandparent, greatgrandparent, stepparent, brother, sister, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepgrandparent, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, stepuncle, or steppaunt.

(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.

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- 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 or band to receive notice of involuntary child custody proceedings under the 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. 767.11](#).
18. A 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.
19. A day 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.](#)

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[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.

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(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 and circumstances contributing to a suspicion of child abuse or neglect or of unborn child abuse or to a belief that abuse or neglect will occur.

2. The sheriff or police department shall within 12 hours, exclusive of Saturdays, Sundays, or legal holidays, refer to 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 all cases reported to it. The county department, department, or licensed child welfare agency may require that a subsequent report be made in writing.

3. A county department, the department, or a licensed child welfare agency under contract with the department shall within 12 hours, exclusive of Saturdays, Sundays, or legal holidays, refer to the sheriff or police department all cases of suspected or threatened abuse, as defined in [s. 48.02\(1\)\(b\)](#) to [\(f\)](#), reported to it. For cases of suspected or threatened abuse, as defined in [s. 48.02\(1\)\(a\)](#), [\(am\)](#), or [\(gm\)](#), or neglect, each county department, the department,

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and a licensed child welfare agency under contract with the department shall adopt a written policy specifying the kinds of reports it will routinely report to local law enforcement authorities.

4. If the report is of suspected or threatened abuse, as defined in [s. 48.02\(1\)\(b\)](#) to [\(f\)](#), the sheriff or police department and the county department, department, or licensed child welfare agency under contract with the department shall coordinate the planning and execution of the investigation of the report.

(b) Duties of local law enforcement agencies. 1. Any person reporting under this section may request an immediate investigation by the sheriff or police department if the person has reason to suspect that the health or safety of a child or of an unborn child is in immediate danger. Upon receiving such a request, the sheriff or police department shall immediately investigate to determine if there is reason to believe that the health or safety of the child or unborn child is in immediate danger and take any necessary action to protect the child or unborn child.

2. If the investigating officer has reason under [s. 48.19 \(1\) \(c\)](#) or [\(cm\)](#) or [\(d\)](#) 5. or 8. to take a child into custody, the investigating officer shall take the child into custody and deliver the child to the intake worker under [s. 48.20](#).

2m. If the investigating officer has reason under [s. 48.193 \(1\) \(c\)](#) or [\(d\)](#) 2. to take the adult expectant mother of an unborn child into custody, the investigating officer shall take the adult expectant mother into custody and deliver the adult expectant mother to the intake worker under [s. 48.203](#).

3. If the sheriff or police department determines that criminal action is necessary, the sheriff or police department shall refer the case to the district attorney for criminal prosecution. Each sheriff and police department shall adopt a written policy specifying the kinds of reports of suspected or threatened abuse, as defined in [s. 48.02\(1\)\(b\)](#) to [\(f\)](#), that the sheriff or police department will routinely refer to the district attorney for criminal prosecution.

(bm) Notice of report to Indian tribal agent. In a county which has wholly or partially within its boundaries a federally recognized Indian reservation or a bureau of Indian affairs service area for the Ho-Chunk tribe, if a county department which receives a report under par. (a) pertaining to a child or unborn child knows that the child is an Indian child who resides in the county or that the unborn child is an Indian unborn child whose expectant mother resides in the county, the county department shall provide notice, which shall consist only of the name and address of the child or expectant mother and the fact that a report has been received about that child or unborn child, within 24 hours to one of the following:

1. If the county department knows with which tribe or band the child is affiliated, or with which tribe or band the unborn child, when born, may be eligible for affiliation, and it is a Wisconsin tribe or band, the tribal agent of that tribe or band.

2. If the county department does not know with which tribe or band the child is affiliated, or with which tribe or band the unborn child, when born, may be eligible for affiliation, or the child or expectant mother is not affiliated with a Wisconsin tribe or band, the tribal agent serving the reservation or Ho-Chunk service area where the child or expectant mother resides.

3. If neither subd. 1. nor 2. applies, any tribal agent serving a reservation or Ho-Chunk service area in the county.

(c) Duties of county departments. 1. Within 24 hours after receiving a report under par. (a), the agency shall, in accordance with the authority granted to the department under [s. 48.48\(17\)\(a\)](#)1. or the county department under [s. 48.57\(1\)\(a\)](#), initiate a diligent investigation to determine if the child or unborn child is in need of protection or services. The investigation shall be conducted in accordance with standards established by the department for conducting child abuse and neglect investigations or unborn child abuse investigations. If the investigation is of a report of child abuse or neglect or of threatened child abuse or neglect by a caregiver specified in sub. (1)(am)5. to 8. who continues to have access to the child or a caregiver specified in sub. (1)(am)1. to 4., or of a report that does not disclose who is suspected of the child abuse or neglect and in which the investigation does not disclose who abused or neglected the child, the investigation shall also include observation of or an interview with the child, or both, and, if possible, an interview with the child's parents, guardian or legal custodian. If the investigation is of a report of child abuse or neglect or threatened child abuse or neglect by a caregiver who continues to reside in the

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same dwelling as the child, the investigation shall also include, if possible, a visit to that dwelling. At the initial visit to the child's dwelling, the person making the investigation shall identify himself or herself and the agency involved to the child's parents, guardian or legal custodian. The agency may contact, observe or interview the child at any location without permission from the child's parent, guardian or legal custodian if necessary to determine if the child is in need of protection or services, except that the person making the investigation may enter a child's dwelling only with permission from the child's parent, guardian or legal custodian or after obtaining a court order to do so.

2. a. If the person making the investigation is an employee of 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 and he or she determines that it is consistent with the child's best interest in terms of physical safety and physical health to remove the child from his or her home for immediate protection, he or she shall take the child into custody under [s. 48.08\(2\)](#) or [48.19\(1\)\(c\)](#) and deliver the child to the intake worker under [s. 48.20](#).

b. If the person making the investigation is an employee of a licensed child welfare agency which is under contract with the county department and he or she determines that any child in the home requires immediate protection, he or she shall notify the county department of the circumstances and together with an employee of the county department shall take the child into custody under [s. 48.08\(2\)](#) or [48.19\(1\)\(c\)](#) and deliver the child to the intake worker under [s. 48.20](#).

2m. a. If the person making the investigation is an employee of 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 and he or she determines that it is consistent with the best interest of the unborn child in terms of physical safety and physical health to take the expectant mother into custody for the immediate protection of the unborn child, he or she shall take the expectant mother into custody under [s. 48.08 \(2\)](#), [48.19 \(1\) \(cm\)](#) or [48.193 \(1\) \(c\)](#) and deliver the expectant mother to the intake worker under [s. 48.20](#) or [48.203](#).

b. If the person making the investigation is an employee of a licensed child welfare agency which is under contract with the county department and he or she determines that any unborn child requires immediate protection, he or she shall notify the county department of the circumstances and together with an employee of the county department shall take the expectant mother of the unborn child into custody under [s. 48.08 \(2\)](#), [48.19 \(1\) \(cm\)](#) or [48.193 \(1\) \(c\)](#) and deliver the expectant mother to the intake worker under [s. 48.20](#) or [48.203](#).

3. If 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 determines that a child, any member of the child's family or the child's guardian or legal custodian is in need of services or that the expectant mother of an unborn child is in need of services, the county department, department or licensed child welfare agency shall offer to provide appropriate services or to make arrangements for the provision of services. If the child's parent, guardian or legal custodian or the expectant mother refuses to accept the services, the county department, department or licensed child welfare agency may request that a petition be filed under [s. 48.13](#) alleging that the child who is the subject of the report or any other child in the home is in need of protection or services or that a petition be filed under [s. 48.133](#) alleging that the unborn child who is the subject of the report is in need of protection or services.

4. 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 shall determine, within 60 days after receipt of a report, whether abuse or neglect has occurred or is likely to occur. The determination shall be based on a preponderance of the evidence produced by the investigation. A determination that abuse or neglect has occurred may not be based solely on the fact that the child's parent, guardian or legal custodian in good faith selects and relies on prayer or other religious means for treatment of disease or for remedial care of the child. In making a determination that emotional damage has occurred, 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 shall give due regard to the culture of the subjects. This subdivision does not prohibit a court from ordering medical services for the child if the child's health requires it.

5. The agency shall maintain a record of its actions in connection with each report it receives. The record shall include a description of the services provided to any child and to the parents, guardian or legal custodian of the child

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or to any expectant mother of an unborn child. The agency shall update the record every 6 months until the case is closed.

5m. If 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 determines under subd. 4. that a specific person has abused or neglected a child, the county department, department or licensed child welfare agency, within 15 days after the date of the determination, shall notify the person in writing of the determination, the person's right to appeal the determination and the procedure by which the person may appeal the determination, and the person may appeal the determination in accordance with the procedures established by the department under this subdivision. The department shall promulgate rules establishing procedures for conducting an appeal under this subdivision. Those procedures shall include a procedure permitting an appeal under this subdivision to be held in abeyance pending the outcome of any criminal proceedings or any proceedings under [s. 48.13](#) based on the alleged abuse or neglect or the outcome of any investigation that may lead to the filing of a criminal complaint or a petition under [s. 48.13](#) based on the alleged abuse or neglect.

6. The agency shall, within 60 days after it receives a report from a person required under sub. (2) to report, inform the reporter what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report.

6m. If a person who is not required under sub. (2) to report makes a report and is a relative of the child, other than the child's parent, or is a relative of the expectant mother of the unborn child, that person may make a written request to the agency for information regarding what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report. An agency that receives a written request under this subdivision shall, within 60 days after it receives the report or 20 days after it receives the written request, whichever is later, inform the reporter in writing of what action, if any, was taken to protect the health and welfare of the child or unborn child, unless a court order prohibits that disclosure, and of the duty to keep the information confidential under sub. (7) (e) and the penalties for failing to do so under sub. (7) (f). The agency may petition the court ex parte for an order prohibiting that disclosure and, if the agency does so, the time period within which the information must be disclosed is tolled on the date the petition is filed and remains tolled until the court issues a decision. The court may hold an ex parte hearing in camera and shall issue an order granting the petition if the court determines that disclosure of the information would not be in the best interests of the child or unborn child.

7. 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 shall cooperate with law enforcement officials, courts of competent jurisdiction, tribal governments and other human services agencies to prevent, identify and treat child abuse and neglect and unborn child abuse. 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 shall coordinate the development and provision of services to abused and neglected children, to abused unborn children to families in which child abuse or neglect has occurred, to expectant mothers who have abused their unborn children, to children and families when circumstances justify a belief that abuse or neglect will occur and to the expectant mothers of unborn children when circumstances justify a belief that unborn child abuse will occur.

8. Using the format prescribed by the department, each county department shall provide the department with information about each report that the county department receives or that is received by a licensed child welfare agency that is under contract with the county department and about each investigation that the county department or a licensed child welfare agency under contract with the county department conducts. Using the format prescribed by the department, a licensed child welfare agency under contract with the department shall provide the department with information about each report that the child welfare agency receives and about each investigation that the child welfare agency conducts. This information shall be used by the department to monitor services provided by county departments or licensed child welfare agencies under contract with county departments or the department. The department shall use nonidentifying information to maintain statewide statistics on child abuse and neglect and on unborn child abuse, and for planning and policy development purposes.

9. The agency may petition for child abuse restraining orders and injunctions under [s. 48.25\(6\)](#).

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(cm) *Contract with licensed child welfare agencies.* A county department may contract with a licensed child welfare agency to fulfill the county department's duties specified under par. (c) 1., 2. b., 2m. b., 5., 6., 6m. and 8. The department may contract with a licensed child welfare agency to fulfill the department's duties specified under par. (c) 1., 2. a., 2m. b., 3., 4., 5., 5m., 6., 6m., 7., 8. and 9. in a county having a population of 500,000 or more. The confidentiality provisions specified in sub. (7) shall apply to any licensed child welfare agency with which a county department or the department contracts.

(d) *Independent investigation.* 1. In this paragraph, "agent" includes, but is not limited to, a foster parent, treatment foster parent or other person given custody of a child or a human services professional employed by a county department under [s. 51.42](#) or [51.437](#) or by a child welfare agency who is working with a child or an expectant mother of an unborn child under contract with or under the supervision of the department in a county having a population of 500,000 or more or a county department under [s. 46.22](#).

2. If an agent or employee of an agency required to investigate under this subsection is the subject of a report, or if the agency determines that, because of the relationship between the agency and the subject of a report, there is a substantial probability that the agency would not conduct an unbiased investigation, the agency shall, after taking any action necessary to protect the child or unborn child, notify the department. Upon receipt of the notice, the department, in a county having a population of less than 500,000 or a county department or child welfare agency designated by the department in any county shall conduct an independent investigation. If the department designates a county department under [s. 46.22](#), [46.23](#), [51.42](#) or [51.437](#), that county department shall conduct the independent investigation. If a licensed child welfare agency agrees to conduct the independent investigation, the department may designate the child welfare agency to do so. The powers and duties of the department or designated county department or child welfare agency making an independent investigation are those given to county departments under par. (c).

(4) Immunity from liability. Any person or institution participating in good faith in the making of a report, conducting an investigation, ordering or taking of photographs or ordering or performing medical examinations of a child or of an expectant mother under this section shall have immunity from any liability, civil or criminal, that results by reason of the action. For the purpose of any proceeding, civil or criminal, the good faith of any person reporting under this section shall be presumed. The immunity provided under this subsection does not apply to liability for abusing or neglecting a child or for abusing an unborn child.

(5) Coroner's report. Any person or official required to report cases of suspected child abuse or neglect who has reasonable cause to suspect that a child died as a result of child abuse or neglect shall report the fact to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation and shall report the findings to the appropriate district attorney; to the department or, in a county having a population of 500,000 or more, to a licensed child welfare agency under contract with the department; to the county department and, if the institution making the report initially is a hospital, to the hospital.

(6) Penalty. Whoever intentionally violates this section by failure to report as required may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

(7) Confidentiality. (a) All reports made under this section, notices provided under sub. (3)(bm) and records maintained by an agency and other persons, officials and institutions shall be confidential. Reports and records may be disclosed only to the following persons:

1. The subject of a report, except that the person or agency maintaining the record or report may not disclose any information that would identify the reporter.

1m. A reporter described in sub. (3) (c) 6m. who makes a written request to an agency for information regarding what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report, unless a court order under sub. (3) (c) 6m. prohibits disclosure of that information to that reporter, except that the only information that may be disclosed is information in the record regarding what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report.

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2. Appropriate staff of an agency or a tribal social services department.
 - 2m. A person authorized to provide or providing intake or dispositional services for the court under [s. 48.067](#), [48.069](#) or [48.10](#).
 - 2r. A person authorized to provide or providing intake or dispositional services under [s. 938.067](#), [938.069](#) or [938.10](#).
3. An attending physician for purposes of diagnosis and treatment.
 - 3m. A child's parent, guardian or legal custodian or the expectant mother of an unborn child, except that the person or agency maintaining the record or report may not disclose any information that would identify the reporter.
 4. A child's foster parent, treatment foster parent or other person having physical custody of the child or a person having physical custody of the expectant mother of an unborn child, except that the person or agency maintaining the record or report may not disclose any information that would identify the reporter.
 5. A professional employee of a county department under [s. 51.42](#) or [51.437](#) who is working with the child or the expectant mother of the unborn child under contract with or under the supervision of the county department under [s. 46.22](#) 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.
 6. A multidisciplinary child abuse and neglect or unborn child abuse team recognized by 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.
 - 6m. A person employed by a child advocacy center recognized by the county board, 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, to the extent necessary to perform the services for which the center is recognized by the county board, the county department, the department or the licensed child welfare agency.
 8. A law enforcement officer or law enforcement agency or a district attorney for purposes of investigation or prosecution.
 - 8m. The department of corrections, the department of health and family 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 and family services or a county department under [s. 46.215](#), [46.22](#), [46.23](#), [51.42](#) or [51.437](#) to exercise custody or supervision over a person who is subject to community placement for purposes of investigating or providing services to a person who is subject to community placement and who is the subject of a report. In making its investigation, the department of corrections, department of health and family services, county department or other person shall cooperate with the agency making the investigation under sub. (3)(c) or (d).
 9. A court or administrative agency for use in a proceeding relating to the licensing or regulation of a facility regulated under this chapter.
 10. A court conducting proceedings under [s. 48.21](#) or [48.213](#), a court conducting proceedings related to a petition under [s. 48.13](#), [48.133](#) or [48.42](#) or a court conducting dispositional proceedings under subch. VI or VIII in which abuse or neglect of the child who is the subject of the report or record or abuse of the unborn child who is the subject of the report or record is an issue.
 - 10g. A court conducting proceedings under [s. 48.21](#), a court conducting proceedings related to a petition under [s. 48.13\(3m\)](#) or [\(10m\)](#) or a court conducting dispositional proceedings under subch. VI in which an issue is the substantial risk of abuse or neglect of a child who, during the time period covered by the report or record, was in the home of the child who is the subject of the report or record.
 - 10j. A court conducting proceedings under [s. 938.21](#), a court conducting proceedings relating to a petition under ch.

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938 or a court conducting dispositional proceedings under subch. VI of ch. 938 in which abuse or neglect of the child who is the subject of the report or record is an issue.

10m. A tribal court, or other adjudicative body authorized by a tribe or band to perform child welfare functions, that exercises jurisdiction over children and unborn children alleged to be in need of protection or services for use in proceedings in which abuse or neglect of the child who is the subject of the report or record or abuse of the unborn child who is the subject of the report or record is an issue.

10r. A tribal court, or other adjudicative body authorized by a tribe or band to perform child welfare functions, that exercises jurisdiction over children alleged to be in need of protection or services for use in proceedings in which an issue is the substantial risk of abuse or neglect of a child who, during the time period covered by the report or record, was in the home of the child who is the subject of the report or record.

11. The county corporation counsel or district attorney representing the interests of the public, the agency legal counsel and the counsel or guardian ad litem representing the interests of a child in proceedings under subd. 10., 10g or 10j and the guardian ad litem representing the interests of an unborn child in proceedings under subd. 10.

11m. An attorney representing the interests of an Indian tribe or band in proceedings under subd. 10m. or 10r., of an Indian child in proceedings under subd. 10m. or 10r, or of an Indian unborn child in proceedings under subd. 10m.

11r. A volunteer court-appointed special advocate designated under [s. 48.236\(1\)](#) or person employed by a court-appointed special advocate program recognized by the chief judge of a judicial administrative district under [s. 48.07\(5\)](#), to the extent necessary for the court-appointed special advocate to perform the advocacy services specified in [s. 48.236\(3\)](#) that the court-appointed special advocate was designated to perform in proceedings related to a petition under [s. 48.13](#).

12. A person engaged in bona fide research, with the permission of the department. Information identifying subjects and reporters may not be disclosed to the researcher.

13. The department, a county department under [s. 48.57\(1\)\(e\)](#) or [\(hm\)](#) or a licensed child welfare agency ordered to conduct a screening or an investigation of a stepparent under [s. 48.88\(2\)\(c\)](#).

14. A grand jury if it determines that access to specified records is necessary for the conduct of its official business.

14m. A judge conducting proceedings under [s. 968.26](#).

15. A child fatality review team recognized by 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.

15g. A citizen review panel established or designated by the department or a county department.

15m. A coroner, medical examiner or pathologist or other physician investigating the cause of death of a child whose death is unexplained or unusual or is associated with unexplained or suspicious circumstances.

17. A federal agency, state agency of this state or any other state or local governmental unit located in this state or any other state that has a need for a report or record in order to carry out its responsibility to protect children from abuse or neglect or to protect unborn children from abuse.

(am) Notwithstanding par. (a)(intro.), a tribal agent who receives notice under sub. (3)(bm) may disclose the notice to a tribal social services department.

(b) Notwithstanding par. (a), either parent of a child may authorize the disclosure of a record for use in a child custody proceeding under [s. 767.24](#) or [767.325](#) or in an adoption proceeding under [s. 48.833](#), [48.835](#), [48.837](#) or [48.839](#) when the child has been the subject of a report. Any information that would identify a reporter shall be deleted before disclosure of a record under this paragraph.

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(c) Notwithstanding par. (a), the subject of a report may authorize the disclosure of a record to the subject's attorney. The authorization shall be in writing. Any information that would identify a reporter shall be deleted before disclosure of a record under this paragraph.

(cm) Notwithstanding par. (a), an agency may disclose information from its records for use in proceedings under [s. 48.25\(6\)](#), [813.122](#) or [813.125](#).

(cr)1. Notwithstanding par. (a) and subject to subd. 3., an agency may disclose to the general public a written summary of the information specified in subd. 2. relating to any child who has died or been placed in serious or critical condition, as determined by a physician, as a result of any suspected abuse or neglect that has been reported under this section if any of the following circumstances apply:

a. A person has been charged with a crime for causing the death or serious or critical condition of the child as a result of the suspected abuse or neglect, or the district attorney indicates that a person who is deceased would have been charged with a crime for causing the death or serious or critical condition of the child as a result of the suspected abuse or neglect, but for the fact that the person is deceased.

b. A judge, district attorney, law enforcement officer, law enforcement agency or any other officer or agency whose official duties include the investigation or prosecution of crime has previously disclosed to the public, in the performance of the official duties of the officer or agency, that the suspected abuse or neglect of the child has been investigated under sub. (3) or that child welfare services have been provided to the child or the child's family under this chapter.

c. A parent, guardian or legal custodian of the child or the child, if 14 years of age or over, has previously disclosed or authorized the disclosure of the information specified in subd. 2.

2. If an agency is permitted to disclose information under subd. 1. relating to a child who has died or been placed in serious or critical condition as a result of any suspected abuse or neglect that has been reported under this section, the agency may disclose all of the following information from its records:

a. A description of any investigation made by the agency in response to the report of the suspected abuse or neglect, a statement of the determination made by the agency under sub. (3)(c)4. with respect to the report and the basis for that determination, a statement of whether any services were offered or provided to the child, the child's family or the person suspected of the abuse or neglect and a statement of whether any other action was taken by the agency to protect the child who is the subject of the report or any other child residing in the same dwelling as the child who is the subject of the report.

b. Whether any previous report of suspected or threatened abuse or neglect of the child has been made to the agency and the date of the report, a statement of the determination made by the agency under sub. (3)(c)4. with respect to the report and the basis for that determination, a statement of whether any services were offered or provided to the child, the child's family or the person suspected of the abuse or neglect and a statement of whether any other action was taken by the agency to protect the child who is the subject of the report or any other child residing in the same dwelling as the child who is the subject of the report.

c. Whether the child or the child's family has received any services under this chapter prior to the report of suspected abuse or neglect that caused the child's death or serious or critical condition or any previous report of suspected or threatened abuse or neglect.

3. An agency may not disclose any of the information described in subd. 2. if any of the following applies:

a. The agency determines that disclosure of the information would be contrary to the best interests of the child who is the subject of the report, the child's siblings or any other child residing in the same dwelling as the child who is the subject of the report or that disclosure of the information is likely to cause mental, emotional or physical harm or danger to the child who is the subject of the report, the child's siblings, any other child residing in the same dwelling

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as the child who is the subject of the report or any other person.

b. The district attorney determines that disclosure of the information would jeopardize any ongoing or future criminal investigation or prosecution or would jeopardize a defendant's right to a fair trial.

c. The agency determines that disclosure of the information would jeopardize any ongoing or future civil investigation or proceeding or would jeopardize the fairness of such a proceeding.

d. Disclosure of the information is not authorized by state law or rule or federal law or regulation.

e. The investigation under sub. (3) of the report of the suspected abuse or neglect has not been completed, in which case the agency may only disclose that the report is under investigation.

f. Disclosure of the information would reveal the identity of the child who is the subject of the report, the child's siblings, the child's parent, guardian or legal custodian or any other person residing in the same dwelling as the child, and information that would reveal the identity of those persons has not previously been disclosed to the public.

g. Disclosure of the information would reveal the identity of a reporter or any other person who provides information relating to the suspected abuse or neglect of the child.

4. Any person who requests the information specified in subd. 2. under the circumstances specified in subd. 1. and whose request is denied may petition the court to order the disclosure of that information. On receiving a petition under this subdivision, the court shall notify the agency, the district attorney, the child and the child's parent, guardian or legal custodian of the petition. If any person notified objects to the disclosure, the court may hold a hearing to take evidence and hear argument relating to the disclosure of the information. The court shall make an in camera inspection of the information sought to be disclosed and shall order disclosure of the information, unless the court finds that any of the circumstances specified in subd. 3. apply.

5. Any person acting in good faith in disclosing or refusing to disclose the information specified in subd. 2. under the circumstances specified in subd. 1. is immune from any liability, civil or criminal, that may result by reason of that disclosure or nondisclosure. For purposes of any proceeding, civil or criminal, the good faith of a person in disclosing or refusing to disclose the information specified in subd. 2. under the circumstances specified in subd. 1. shall be presumed.

(d) Notwithstanding par. (a), the department may have access to any report or record maintained by an agency under this section.

(e) A person to whom a report or record is disclosed under this subsection may not further disclose it, except to the persons and for the purposes specified in this section.

(f) Any person who violates this subsection, or who permits or encourages the unauthorized dissemination or use of information contained in reports and records made under this section, may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

(8) Education, training and program development and coordination. (a) The department, the county departments, and a licensed child welfare agency under contract with the department in a county having a population of 500,000 or more to the extent feasible shall conduct continuing education and training programs for staff of the department, the county departments, licensed child welfare agencies under contract with the department or a county department, law enforcement agencies, and the tribal social services departments, persons and officials required to report, the general public, and others as appropriate. The programs shall be designed to encourage reporting of child abuse and neglect and of unborn child abuse, to encourage self-reporting and voluntary acceptance of services and to improve communication, cooperation, and coordination in the identification, prevention, and treatment of child abuse and neglect and of unborn child abuse. Programs provided for staff of the department, county departments, and licensed child welfare agencies under contract with county departments or the department whose responsibilities

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include the investigation or treatment of child abuse or neglect shall also be designed to provide information on means of recognizing and appropriately responding to domestic abuse, as defined in [s. 46.95\(1\)\(a\)](#). The department, the county departments, and a licensed child welfare agency under contract with the department in a county having a population of 500,000 or more shall develop public information programs about child abuse and neglect and about unborn child abuse.

(b) The department shall to the extent feasible ensure that there are available in the state administrative procedures, personnel trained in child abuse and neglect and in unborn child abuse, multidisciplinary programs and operational procedures and capabilities to deal effectively with child abuse and neglect cases and with unborn child abuse cases. These procedures and capabilities may include, but are not limited to, receipt, investigation and verification of reports; determination of treatment or ameliorative social services; or referral to the appropriate court.

(c) In meeting its responsibilities under par. (a) or (b), the department, a county department or a licensed child welfare agency under contract with the department in a county having a population of 500,000 or more may contract with any public or private organization which meets the standards set by the department. In entering into the contracts the department, county department or licensed child welfare agency shall give priority to parental organizations combating child abuse and neglect or unborn child abuse.

(d)1. Each agency staff member and supervisor whose responsibilities include investigation or treatment of child abuse and neglect or of unborn child abuse shall successfully complete training in child abuse and neglect protective services and in unborn child abuse protective services approved by the department. The training shall include information on means of recognizing and appropriately responding to domestic abuse, as defined in [s. 46.95 \(1\)\(a\)](#). The department shall monitor compliance with this subdivision according to rules promulgated by the department.

2. Each year the department shall make available training programs that permit intake workers and agency staff members and supervisors to satisfy the requirements under subd. 1. and [s. 48.06\(1\)\(am\)](#)3. and (2)(c).

(9) Annual reports. Annually, the department shall prepare and transmit to the governor, and to the legislature under [s. 13.172 \(2\)](#), a report on the status of child abuse and neglect programs and on the status of unborn child abuse programs. The report shall include a full statistical analysis of the child abuse and neglect reports, and the unborn child abuse reports, made through the last calendar year, an evaluation of services offered under this section and their effectiveness, and recommendations for additional legislative and other action to fulfill the purpose of this section. The department shall provide statistical breakdowns by county, if requested by a county.

(10) Current list of tribal agents. The department shall annually provide to each agency described in sub. (3)(bm)(intro.) a current list of all tribal agents in the state.

<<For credits, see Historical Note field.>>

COMMENTS--1997 ACT 114, § 10

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Note: The amendment in Section 10 deletes obsolete language in the statute regarding determinations of child abuse or neglect which requires the agency making the determination, in cases of emotional damage, to establish that the person alleged to be responsible for the emotional damage is neglecting, refusing or unable for reasons other than poverty to remedy the harm. The requirement that a parent, guardian, legal custodian or other person exercising permanent or temporary control over the child must have caused the emotional damage was repealed in the 1993-94 legislative session. Also, the requirement that the parent, guardian or legal custodian must have neglected, refused or been unable for reasons other than poverty to obtain the necessary treatment or to take steps to ameliorate the symptoms was incorporated into the definition of "abuse" in the 1995-96 legislative session.

COMMENTS--1995 ACT 275, § § 111, 112, 115, 117, 119

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[Section 111] Repeals the definition of "abuse" under s. 48.981, stats. (the child abuse and neglect reporting and investigation statute), to reflect the creation of the definition of "abuse" in the general definitions section of ch. 48 ([s. 48.02\(1\), stats.](#), as created by this bill).

Under current s. 48.981(1)(a), stats., "abuse" means any of the following:

1. "Physical injury", as defined in current s. 48.981(1)(e), stats., inflicted on a child by other than accidental means.
2. Sexual intercourse or sexual contact under [s. 940.225, stats.](#) (the general sexual assault statute), [948.02, stats.](#) (sexual assault of a child), or [948.025, stats.](#) (repeated acts of sexual assault against the same child).
3. A violation of [s. 948.05, stats.](#) (sexual exploitation of a child).
4. Permitting, allowing or encouraging a child to violate [s. 944.30, stats.](#) (prostitution).
5. Emotional damage, as defined in current s. 48.981(1)(cm), stats.
6. A violation of [s. 948.055, stats.](#) (causing a child to view or listen to sexual activity).

The definition of "abuse" in [s. 48.02\(1\)](#), as created by this bill, is identical to the definition in current s. 48.981(1)(a), stats., with the following exceptions:

1. The definition of "physical injury", which is a component of the definition of "abuse", is changed by this bill. This bill repeals the definition of "physical injury" in current s. 48.981(1)(e), stats., and creates a new definition of "physical injury" in [s. 48.02\(14m\), stats.](#), as created by this bill.
2. The underlying definition of "emotional damage", which is a component of the definition of "abuse", is changed by this bill. The bill repeals the definition of "emotional damage" in current s. 48.981(1)(cm), stats., and creates a new definition of "emotional damage" in [s. 48.02\(5j\), stats.](#), as created by this bill.
3. A violation of [s. 948.10, stats.](#), (for purposes of sexual arousal or gratification, either causing a child to expose genitals or pubic area or exposing genitals or pubic area to a child) has been added.

[Section 112] Repeals the definition of "child" under s. 48.981, stats., as the term is defined in the same way in the current general definitions section of ch. 48 ([s. 48.02\(2\), stats.](#)).

[Section 115] Reflects the repeal of the definition of "abuse" in s. 48.981(1)(a), stats., and the creation of a definition of "abuse" in [s. 48.02\(1\), stats.](#), as created by this bill, including provision for sexual intercourse and sexual contact in [s. 48.02\(1\)\(b\), stats.](#), as created by this bill.

[Section 117] Does the following:

1. Provides that *voluntary reporters* who are relatives of a child, as defined in s. 48.981(1)(fm), stats., other than the child's parent, may request in writing that a county department or a licensed child welfare agency under contract with the county department disclose information to them regarding what action, if any, was taken to protect the health and welfare of the child. The voluntary reporters who may request this information are the following: the child's grandparent, stepparent, brother, sister, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepgrandparent, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, stepuncle or steppaunt.
2. Provides that a county department or a licensed child welfare agency that receives such a request must, within 60 days after it receives the report or 20 days after it receives the written request, whichever is later,

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inform such a voluntary reporter in writing of: (a) what action, if any, was taken to protect the health and welfare of the child, unless the county department or child welfare agency has obtained a juvenile court order prohibiting such disclosure; and (b) the duty to keep the information confidential and the penalties for failing to do so.

The special committee intends that the information provided to a voluntary reporter be the same information that is typically provided to mandatory reporters, that is, whether the report was substantiated or unsubstantiated and whether services were offered to the child.

3. Permits the county department or licensed child welfare agency to petition the juvenile court ex parte for an order prohibiting such disclosure and, if the county department or licensed child welfare agency does so, provides that the deadline for disclosure is suspended until the juvenile court issues its decision. This Section also provides that the juvenile court may hold an ex parte hearing in camera and must issue an order granting the petition if the juvenile court determines that such disclosure would not be in the best interests of the child.

[Section 119] Includes a voluntary reporter who is a relative, other than a parent, and who makes a written request for information regarding what action, if any, was taken to protect the health and welfare of the child who is the subject of the report in the list of persons to whom information in child abuse or neglect records may be disclosed, unless a juvenile court order prohibits disclosure of that information to that reporter, but limits the information that may be disclosed to such a voluntary reporter to information regarding what action, if any, was taken to protect the health and welfare of the child. By virtue of inclusion in this list, a voluntary reporter who receives such information is subject to the duty to keep the information confidential in s. 48.981(7)(e), stats., and the penalties for failing to do so in s. 48.981(7)(f), stats.

COMMENTS--1993 ACT 395, § 38

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The creation of s. 48.981(7)(a)10g and 10r and the treatment of s. 48.981(7)(a)11 and 11m, stats., by this bill, expand the list of persons who may have access to reports of child abuse or neglect to include the juvenile court, the tribal court and the attorneys in proceedings concerning another child in the home who is alleged to be at a substantial risk of abuse or neglect.

COMMENTS--1987 ACT 355

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Amends s. 48.981(2), which specifies those persons required to report cases of suspected child abuse or neglect, to include mediators under new s. 767.11 as mandatory child abuse or neglect reporters.

LAW REVISION COMMITTEE NOTES--1987 ACT 209

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The definition of "Indian child" is taken from the definition of "Indian child" in the Indian child welfare act, [25 USC 1903\(4\)](#).

Deletes the requirement in current law that persons required to report suspected child abuse must contact the tribal government in the case of Indian children and eliminates the current requirement that sheriffs or police departments receiving reports involving Indian children must report to the tribal government. These provisions of current law are replaced by a provision (in Section 3 of the bill) requiring the county department which receives a report involving an Indian child to notify a tribal agent of the existence of

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such a report.

Requires that notice provided to a tribal agent about a child abuse or neglect report be kept confidential.

Authorizes disclosure of otherwise confidential records and reports to appropriate staff of a tribal social services department. [Under s. 19.35(1), a person who has access to a record also has the right to receive a copy of the record.]

Permits disclosure of otherwise confidential records and reports to a tribal social services department that is currently investigating a report of child abuse or neglect.

Permits disclosure of otherwise confidential records and reports to a tribal court or other tribal adjudicative body exercising jurisdiction over a child for use in proceedings in which abuse or neglect of the child who is the subject of such report or record is an issue and to an attorney representing the interests of an Indian tribe or band or an Indian child in such proceedings. Also permits a tribal agent to disclose to a tribal social services department the notice he or she receives from a county department.

Makes continuing education and training programs offered by the department of health and social services and county departments available to tribal social services departments which are notified of child abuse reports.

HISTORICAL AND STATUTORY NOTES

2005 Electronic Update

Source:

[2003 Act 33, § 1189g, eff. July 26, 2003.](#)

[2003 Act 33, § 1189r, eff. July 1, 2008.](#)

[2003 Act 279, § 1 to 4, eff. May 1, 2004.](#)

[2003 Act 321, § 24, 25, eff. June 12, 2004.](#)

[2003 Act 321, § 26, 107, eff. April 1, 2004.](#)

2003 Legislation:

[2003 Act 321](#) amended subsecs. (2), (2)(a)(intro.) and (2)(a)18.; and created subsec. (2)(a)22m.

[2003 Act 279](#) created subsecs. (1)(cv), (1)(cx) and (2)(bm); and amended subsec. (2)(c).

[2003 Act 279](#), § 10(1) provides:

"The treatment of sections 48.981(1)(cv) and (cx) and (2)(bm) and [905.06\(4\) of the statutes](#) first applies to observations made or information received by a member of the clergy on the effective date [May 1, 2004] of this subsection."

[2003 Act 33](#) amended subsec. (1)(b) twice.

Revisor's Notes:

Note: The stricken language was inserted into s. 48.981(2) by 2001 Wis. Act 69. 2001 Wis. Act 103, a revisor's revision bill, renumbered s. 48.981(2) to be s. 48.981(2)(a)(intro.), deleted previously existing text from s. 48.981(2)(a)(intro.), as renumbered, and recreated it as s. 48.981(2)(a)1. to 29., but the treatment of s. 48.981(2)(a) by Act 69 was not taken into account by Act 103. See also Sections 25 and 26 of this bill.

Note: The underscored language was inserted into s. 48.981(2) by 2001 Wis. Act 69. 2001 Wis. Act 103, a revisor's revision bill, renumbered s. 48.981(2) to be s. 48.981(2)(a)(intro.), deleted the plain text shown above from s.

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48.981(2)(a)(intro.), as renumbered, and recreated it as s. 48.981(2)(a)18., but the treatment of s. 48.981(2)(a) by Act 69 was not taken into account by Act 103. See also Section 24 of this bill.

Note: 2001 Wis. Act 70, section 2, created the term " physical therapist assistant" effective 4-1-04. 2001 Wis. Act 103, a revisor's revision bill, renumbered s. 48.981(2) to be s. 48.981(2) (a)(intro.), deleted affected professions from s. 48.981(2)(a)(intro.), as renumbered, and recreated them in a list as s. 48.981(2)(a)1. to 29., but the treatment of s. 48.981(2) by Act 70 was not taken into account by Act 103 and was not included. See also Section 107 of this bill, which repeals the Act 70 treatment. This section inserts the term within the framework created by Act 103.

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Source:

- L.1965, c. 333, § 1.
- L.1967, c. 230, eff. Oct. 20, 1967.
- S.Ct.Order, eff. Jan. 1, 1974.
- L.1977, c. 355, § 4, eff. May 24, 1978.
- L.1977, c. 447, § 210, eff. July 9, 1978.
- L.1979, c. 300, §§ 92, 93, eff. May 15, 1980.
- 1983 Act 172, §§ 2 to 19, eff. March 28, 1984.
- 1983 Act 190, §§ 4, 5, eff. April 10, 1984.
- 1983 Act 299, § 1, eff. April 27, 1984.
- 1983 Act 538, §§ 56 to 60, eff. June 8, 1984.
- 1985 Act 29, §§ 917 to 930m, 3200(56)(a)5, 11, eff. July 20, 1985.
- 1985 Act 176, §§ 269 to 279, eff. April 10, 1986.
- 1985 Act 234, § 3, eff. April 22, 1986.
- 1987 Act 27, §§ 941e to 941s, eff. Aug. 1, 1987.
- 1987 Act 186, § 38, eff. April 8, 1988.

- 1987 Act 209, §§ 1 to 9, eff. April 19, 1988.
- 1987 Act 332, § 64(1), eff. July 1, 1989.
- 1987 Act 334, § 1, eff. April 28, 1988.
- 1987 Act 355, § 6, eff. May 3, 1988.
- 1987 Act 399, § 149c, eff. May 17, 1988.
- 1987 Act 403, § 59, eff. June 7, 1988.
- 1989 Act 31, § 1318m, eff. Sept. 1, 1990.
- 1989 Act 31, §§ 1319j to 1319zd, eff. Aug. 9, 1989.
- [1989 Act 41, § 4, eff. Aug. 31, 1989.](#)
- [1989 Act 102, § 11, eff. July 1, 1990.](#)
- [1989 Act 102, § 12, eff. Sept. 1, 1990.](#)
- 1989 Act 316, § 7, eff. Dec. 1, 1990.
- 1989 Act 359, § 143, eff. June 2, 1990.
- [1991 Act 160, § 4, eff. May 1, 1993.](#)
- [1991 Act 263, § 23g, eff. July 1, 1992.](#)
- [1993 Act 16, § 1265, eff. Aug. 12, 1993.](#)
- [1993 Act 105, § 7, eff. Dec. 28, 1993.](#)
- [1993 Act 218, § 2, eff. April 21, 1994.](#)
- [1993 Act 227, § 9, eff. April 23, 1994.](#)
- [1993 Act 230, §§ 2 to 12, eff. Sept. 1, 1994.](#)

- [1993 Act 246, § 30, eff. Jan. 1, 1995.](#)
- [1993 Act 272, §§ 1 to 3, eff. April 27, 1994.](#)
- [1993 Act 318, § 7, eff. April 30, 1994.](#)
- [1993 Act 395, §§ 35r to 38, eff. May 5, 1994.](#)
- [1993 Act 443, § 2, eff. July 1, 1995.](#)

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[1993 Act 446, § § 123, 124, eff. May 12, 1994.](#)
[1993 Act 491, § 90, eff. June 11, 1994.](#)
[1995 Act 275, § § 111 to 119, eff. July 1, 1996.](#)
[1995 Act 289, § 76, eff. July 1, 1996.](#)
[1995 Act 369, § § 1m, 1r, 2 to 2m, 3 to 7, eff. June 12, 1996.](#)
[1995 Act 369, § § 1p, 2r, 2v, eff. July 1, 1996.](#)
[1995 Act 456, § 1, eff. July 11, 1996.](#)
[1997 Act 27, § § 1701, 1702 to 1733, eff. Jan. 1, 1998.](#)
[1997 Act 27, § 1701m, eff. Oct. 14, 1997.](#)
[1997 Act 114, § 10, eff. April 30, 1998.](#)
[1997 Act 292, § § 260 to 300, eff. July 1, 1998.](#)
[1997 Act 293, § § 8, 9, eff. July 1, 1998.](#)
[1999 Act 9, § 1195m, eff. Oct. 29, 1999.](#)
[1999 Act 20, § § 1, 2, eff. Jan. 1, 2000.](#)
[1999 Act 32, § § 122 to 124, eff. April 19, 2000.](#)

[1999 Act 56, § 1r, eff. Nov. 1, 2000.](#)
[1999 Act 84, § 9, eff. May 6, 2000.](#)
[1999 Act 149, § § 26, 27, eff. May 25, 2000.](#)
[1999 Act 185, § 193\(1\), eff. Sept. 1, 2000.](#)
[1999 Act 192, § § 1 to 6, eff. June 2, 2000.](#)
[2001 Act 16, § § 1651g to 1651v, eff. Sept. 1, 2001.](#)
[2001 Act 38, § 42, eff. Jan. 5, 2002.](#)
[2001 Act 59, § § 40, 41, eff. April 24, 2002.](#)
[2001 Act 69, § 33, eff. April 26, 2002.](#)
[2001 Act 70, § 2, eff. April 1, 2004.](#)
[2001 Act 103, § § 172, 173, eff. May 25, 2002.](#)
[2001 Act 105, § 23, eff. May 25, 2002.](#)

[2001 Act 105, § 23](#) provides that the treatments of [subsec. \(2\)](#) by 2001 Acts 59 and 69 were not repealed by [2001 Act 70](#) and that all treatments stand.

[2001 Act 103](#) renumbered and amended [subsec. \(2\)](#) as (2)(a)(intro.) and created [subsec. \(2\)\(a\)1.](#) to 29.

The treatment of [subsec. \(2\)](#) by [2001 Act 103](#), a revisor's bill, consolidated amendments of [subsec. \(2\)](#) by 2001 Acts 59, 69 and 70. [2001 Act 70](#) provided a deferred effective date of May 1, 2004. The effective date for [2001 Act 103](#) was May 25, 2002, and the text for [subsec. \(2\)](#) reflects this effective date.

[2001 Act 70](#) amended [subsec. \(2\)](#).

[2001 Act 69](#) amended [subsec. \(2\)](#).

[2001 Act 59](#) amended [subsec. \(1\)\(am\)5.](#) and [subsec. \(2\)](#).

[2001 Act 38, § 42](#) provides that the treatment of [subsec. \(2\)](#) by [1999 Act 56](#) was not repealed by [1999 Act 149](#) and that both treatments stand.

[2001 Act 16](#) amended [subsecs. \(1\)\(am\)1.](#) and (fm) and (3)(a); created [subsec. \(3\)\(a\)4.](#); amended [subsecs. \(3\)\(b\)3.](#) and (8)(a).

[2001 Act 16, § 9323\(15c\)](#) provides:

"Child sexual abuse reports. The amendment of section 48.981(3)(a) of the statutes and the creation of section 48.981(3)(a)4. of the statutes first apply to a report of suspected or threatened abuse, as defined in [section 48.02\(1\)\(b\) to \(f\) of the statutes](#), made under section 48.981(3)(a) of the statutes, as affected by this act, on the

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effective date [Sept. 1, 2001] of this subsection."

[1999 Act 192](#) created subsec. (3)(c)5m.; amended subsec. (3)(cm); created subsec. (7)(a)15g.; amended subsec. (7)(cm); created subsec. (7)(cr); and amended subsec. (7)(d).

[1999 Act 185](#), § 193 provides:

"(1) Wherever 'employe', 'employees', 'employee's' or 'employees' ' appear in the statutes, 'employee', 'employees', 'employee's' or 'employees' ' are substituted.

"(2) Notwithstanding subsection (1), any person may use either spelling of these terms for any official purpose."

[1999 Act 149](#) amended subsecs. (2) and (7)(a)11r.

[1999 Act 84](#) amended subsec. (7)(b).

[1999 Act 56](#) amended subsec. (2).

[1999 Act 32, § 122 amended subsec. \(3\)\(c\)1.](#)

[1999 Act 32, § 123, 124 provide that the treatments of subsecs. \(8\)\(a\) and \(d\)1.](#) by [1997 Act 292](#) were not repealed by [1997 Act 293](#) and that all treatments stand.

[1999 Act 20](#) created subsecs. (1)(b) and (7)(a)8m.

[1999 Act 20](#), § 3(1) provides:

"This act first applies to child abuse and neglect reports and records, as defined in section 48.981(1)(f) of the statutes, that are disclosed on the effective date [Jan. 1, 2000] of this subsection."

[1999 Act 9](#) amended subsec. (7)(b).

[1999 Act 9](#), § 9323(14g) provides:

"Confidentiality of abuse and neglect reports and records. The treatment of section 48.981(7)(b) of the statutes first applies to abuse and neglect reports and records, as defined in section 48.981(1)(f) of the statutes, that are disclosed on the effective date [Oct. 29, 1999] of this subsection."

[1997 Act 293](#) amended subsec. (8)(a) and (d)1.

[1997 Act 292](#) amended the section title: created subsec. (1)(ct); amended subsec. (1)(h)(intro.); created subsec. (1)(h)1m; amended subsecs. (1)(h)2, (2) and (3)(a) and (b)1 and 2; created subsec. (3)(b)2m; amended subsec. (3)(bm)(intro.) and 1 to 3 and (c)1; created subsec. (3)(c)2m; and amended subsecs. (3)(c)3, 5 to 8, (d)1 and 2, (4), (7)(a)1m, 3m to 6, 10, 11 to 11r and 17, (8)(a) to (c) and (d)1 and (9).

[1997 Act 114](#) amended subsec. (3)(c)4.

[1997 Act 27](#) created subsec. (1)(ag) and amended subsecs. (2m)(b)2, (3)(a), (c)1, 2.a and 3 to 9, (cm) and (d), (5), (7)(a)(intro.), 1m, 2, 5 to 8, 11, 11r, 13 and 15, (cm) and (d), (8)(a), (c) and (d)1 and 2 and (10).

[1995 Act 456](#), § 16(1) provides:

"This act first applies to offenses occurring on the effective date [July 11, 1996] of this subsection."

[1995 Act 456](#) purported to amend subsec. (1)(a)2. [1995 Act 275](#) had previously repealed subsec. (1)(a).

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[1995 Act 369](#) created subsec. (7)(a)2m and 2r; repealed subsec. (7)(a)7; amended subsec. (7)(a)8, 10 and 10g; created subsec. (7)(a)10j; amended subsec. (7)(a)11; and created subsec. (7)(a)11r, 14m, 15, 15m and 17.

[1995 Act 289](#) amended subsec. (2).

[1995 Act 275](#) repealed subsec. (1)(a), (b), (cm) and (e); amended subssecs. (2m)(c)(intro.) and ((3)(c)4; created subsec. (3)(c)6m; amended subsec. (3)(cm); and created subsec. (7)(a)1m.

[1995 Act 275](#), § 9310(4) provides:

"Disclosure of information to voluntary child abuse or neglect reporters. The treatment of section 48.981(3)(c) 6m. and (cm) and (7)(a) 1m. of the statutes first applies to reports under section 48.981 of the statutes received by a county department of human services or social services or by a licensed child welfare agency on the effective date [July 1, 1996] of this subsection."

[1993 Act 491, § 90 states that the amendments of subsec. \(7\)\(a\)4](#) by [1993 Act 272](#) and [1993 Act 446](#) both stand.

[1993 Act 491](#) amended subsec. (7)(a)4.

[1993 Act 446](#) amended subssecs. (3)(d)1 and (7)(a)4.

[1993 Act 443](#) amended subsec. (2).

[1993 Act 395](#) created subsec. (7)(a)6m, 10g, 10r; and amended subsec. (7)(a)11 and 11m.

[1993 Act 318](#) amended subsec. (7)(cm).

[1993 Act 272](#) amended subsec. (1)(fm); created subsec. (7)(a)3m; and amended subsec. (7)(a)4 and (b).

[1993 Act 246](#) amended subsec. (3)(a).

[1993 Act 230](#), § 13 provides:

"Initial applicability. (1) Emotional damage. The treatment of section 48.981(1)(cm) of the statutes first applies to emotional damage, as defined in section 48.981(1)(cm) of the statutes, as affected by this act, that occurs on the effective date [Sept. 1, 1994] of this subsection."

[1993 Act 230](#) created subsec. (1)(am) and (cm); repealed subsec. (1)(c)1.a to g; renumbered and amended subsec. (2m)(d)1 (intro.) as (2m)(d)1; and amended subsec. (3)(c)1.

[1993 Act 227](#) amended subsec. (1)(a)2.

[1993 Act 227](#), § 44 provides:

"Initial applicability. This act first applies to offenses committed on the effective date [April 23, 1994] of this Section."

[1993 Act 218](#) amended subsec. (1)(a)6.

[1993 Act 218](#), § 8 provides:

"Initial applicability. This act first applies to offenses occurring on the effective date [April 21, 1994] of this Section."

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[1993 Act 105](#) amended subsec. (2m)(b)1.

[1993 Act 16](#) amended subsec. (9).

[1991 Act 263](#), § § 36f, 37 provide:

"Section 36f. Severability. The provisions of this act, including the provisions permitting the involvement of members of the clergy in a proceeding under s. 48.375, are severable, as provided in s. 990.001(11).

"Section 37. Initial applicability. This act first applies to abortions performed or induced on the effective date [July 1, 1992] of this Section."

[1991 Act 263](#) amended subsec. (1)(fm)

[1991 Act 160](#) amended subsec. (2).

1989 Act 359 amended subsec. (3)(c)2.a.

1989 Act 316 amended subsec. (2).

[1989 Act 102](#) amended and later repealed and recreated subsec. (2).

[1989 Act 41](#) amended subsec. (3)(c)2.a.

1989 Act 31 amended subsecs. (2) and (3)(c)1; renumbered and amended subsec. (3)(c)2 as (3)(c)2.a; created subsec. (3)(c)2.b; amended subsec. (3)(c)5, 6 and 8; created subsec. (3)(cm); and amended subsecs. (3)(d)2, (7)(a)(intro.), 2 and 7 and (d) and (8)(d).

L.1977, c. 355, § 1 provides:

"It is the purpose of this act to protect the health and welfare of children by encouraging the reporting of suspected child abuse and child neglect in a manner which assures that appropriate protective services will be provided to abused and neglected children and that appropriate services will be offered to families of abused and neglected children in order to protect such children from further harm and to promote the well-being of the child in his or her home setting, whenever possible."

CROSS REFERENCES

Abuse of children, penalty, see [§ 948.03](#).

Communications in mediation, see [§ 904.085](#).

Parental consent for minor's abortion, see [§ 48.375](#).

Places where a child may be held in nonsecure custody, see [§ 48.207](#).

Schools, pupil use of alcohol or drugs, confidentiality, see [§ 118.126](#).

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[9 Wisconsin Practice Series § 20.41](#), The Goodchild Hearing.

[3B Wisconsin Practice Series § 904.085:1](#), In General.

UNITED STATES SUPREME COURT

Due process, state duty to protect child from parental abuse, see [DeShaney v. Winnebago County Dept. of Social Services, U.S.Wis.1989, 109 S.Ct. 998, 489 U.S. 189, 103 L.Ed.2d 249](#).

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[1](#). Validity

Wisconsin statute mandating an investigation within 24 hours of initial report of suspected child abuse, when report is made by persons required to report under this section, does not violate equal protection on theory that it results in irrational differential treatment of reports filed by members of the general public, as opposed to reports filed by professionals; state could rationally choose to allocate more resources to reports by skilled and experienced professionals than to those by members of the public at large; moreover, state could reasonably conclude that reports by skilled professionals would in general be more reliable and would therefore result in fewer unnecessary intrusions into the personal lives of families. [Doe by Nelson v. Milwaukee County, C.A.7 \(Wis.\)1990, 903 F.2d 499](#). Constitutional Law  242.1(4); Infants  12(9)


Use of term "suspicion" in this section requiring reporting facts and circumstances contributing to suspicion of child abuse does not itself create unconstitutionally vague statute. [State v. Hurd \(App. 1986\) 400 N.W.2d 42, 135 Wis.2d 266](#). Infants  12(9)

Phrase "reasonable cause to suspect" in this section is readily ascertainable and understandable standard involving belief that ordinary person would reach as to existence of abuse, and thus, section sufficiently alerts person of


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ordinary intelligence as to what conduct is required so that it is not unconstitutionally vague. [State v. Hurd \(App. 1986\) 400 N.W.2d 42, 135 Wis.2d 266](#). Infants  12(9)


2. Choice of law

As child abuse reporting statute applies to children under age 18 and requires those to whom it applies to report instances of possible sexual abuse and neglect, and child abuse statute ([St.1979, § 940.201](#)) applies to children under 16 and is silent as to additional categories of sexual abuse and neglect, statutes, while overlapping, are not coterminous; thus, identical language enumerating example of abuse in both statutes does not lead to conclusion that offense of child abuse is limited to intentional cause of physical injury. [State v. Campbell \(App. 1981\) 306 N.W.2d 272, 102 Wis.2d 243](#). Infants  13


3. Federal requirements

Wisconsin's child abuse reporting statute satisfied requirement of Child Abuse Prevention and Treatment Act (CAPTA) that state "provide that" investigations of reports of child abuse be "initiated promptly" and to take steps to protect child if given report proves true by requiring that report of child abuse be investigated within 24 hours and that police or sheriff take immediate steps to protect child if there is reason to suspect that child is in danger. [Jeanine B. by Blondis v. Thompson, E.D.Wis.1997, 967 F.Supp. 1104](#). Infants  13.5(1)

Wisconsin's child abuse reporting statute satisfied requirement of new version of Child Abuse Prevention and Treatment Act (CAPTA) requiring state law or program containing procedures for investigating and responding to reports of child abuse. [Jeanine B. by Blondis v. Thompson, E.D.Wis.1997, 967 F.Supp. 1104](#). Infants  13.5(1)

Eleventh Amendment precluded district court from ordering state to properly enforce or comply with its own child abuse reporting laws, and Child Abuse Prevention and Treatment Act (CAPTA) could not be interpreted in manner that effectively overrode State's Eleventh Amendment immunity in that regard. [Jeanine B. by Blondis v. Thompson, E.D.Wis.1997, 967 F.Supp. 1104](#). Federal Courts  272


4. Purpose

Under statute relating to reporting of suspected child abuse, legislature intends that people who, in good faith, report suspected abuse shall not suffer negative consequences as a result of making reports. [State v. Polashek \(App. 2001\) 630 N.W.2d 545, 246 Wis.2d 627](#), review granted [635 N.W.2d 781, 247 Wis.2d 1031](#), affirmed in part, reversed in part [646 N.W.2d 330, 253 Wis.2d 527](#), reconsideration denied [653 N.W.2d 894, 257 Wis.2d 123](#). Infants  12(2)

5. Child abuse, consensual conduct



Consensual sexual conduct involving sixteen- and seventeen-year-old children does not constitute child abuse under this section. 72 Op.Atty.Gen. 93 (1983).


6. Duty to report--In general

Church, through administrators and teachers at its school, had duty to protect its students from physical and sexual abuse occurring at the school, both under Wisconsin statute specifically imposing on school officials affirmative duty to protect students from actual or threatened abuse by reporting such conduct to authorities, and under common law. [Kendrick v. East Delavan Baptist Church, E.D.Wis.1995, 886 F.Supp. 1465](#). Schools  5

Granting teachers authority to discipline students by removing them from class for disciplinary purposes is reasonable, and in order for former student and his father to pursue claim of negligent supervision in case in which teacher allegedly abused student, plaintiffs had to show that school officials had notice of teacher's improper

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conduct with that student or other students. [Kendrick v. East Delavan Baptist Church, E.D.Wis.1995, 886 F.Supp. 1465](#). Schools  5; Schools  8


Reasonable cause requirement under this section examines totality of facts and circumstances actually known to, and is viewed from standpoint of, person possessing suspicion; thus, test becomes whether prudent person would have reasonable cause to suspect child abuse if presented with same totality of circumstances as that acquired and viewed by defendant. [State v. Hurd \(App. 1986\) 400 N.W.2d 42, 135 Wis.2d 266](#). Infants  13

The duty to report suspected child abuse or neglect prevails over any inconsistent terms in § 51.30. 68 Op.Atty.Gen. 342 (1979).


7. ---- Permissive reporting

A medical or mental health professional may report suspected child abuse under the permissive provisions of W.S.A. 48.981(3) when the abuser, rather than the victim, is seen in the course of professional duties; [W.S.A. 51.30](#) does not act as a bar to such reports made in good faith. 76 Op.Atty.Gen. 39 (1987).


8. ---- Immediacy of report

Expending reasonable amount of time to verify child's allegation of sexual misconduct is consistent with requirement of statute that allegations of abuse or neglect be reported immediately to proper authorities by teacher, administrator or counselor to whom such allegations are made. [Phillips v. Behnke \(App. 1995\) 531 N.W.2d 619, 192 Wis.2d 552](#). Infants  13

9. ---- Parents, duty to report

Child abuse reporting statute [W.S.A. 48.981(2)], requiring certain specified professionals, but not parents, to report cases of suspected child abuse, did not relieve a parent of common-law duty to protect children from known abuse by other parent. [State v. Williquette \(1986\) 385 N.W.2d 145, 129 Wis.2d 239](#). Parent And Child  13.5(3)


10. ---- State agencies, duty to report

A single hitting of a child without more does not necessarily constitute child abuse, as would require designated state agencies to report it, under Wisconsin's mandatory reporting law. [Lewis v. Anderson, C.A.7 \(Wis.\)2002, 308 F.3d 768](#), certiorari denied [123 S.Ct. 1500, 538 U.S. 908, 155 L.Ed.2d 229](#). Infants  13.5(1)

11. ---- Drug or alcohol abuse, duty to report


Where a child is brought to a hospital for drug treatment due to an overdose of drugs or alcohol, the hospital personnel are required to report the matter pursuant to this section regardless of any inconsistent terms in St.1977, § 51.30 pertaining to the confidentiality of mental health records. Op.Atty.Gen., Nov. 8, 1979.


12. Investigation--In general

This section requiring that county department of social services investigate a report of child abuse within 24 hours, if report is made by a person required to report, did not vest father and grandparents of children who made report with a property interest in having county department investigate report of child abuse within 24 hours; even if father and grandparents were required to report under this section, which they were not, investigation could not be considered a "benefit" to which there could be a claim of entitlement. [Doe by Nelson v. Milwaukee County, C.A.7 \(Wis.\)1990, 903 F.2d 499](#). Constitutional Law  277(1)

Child welfare investigator did not violate statute governing investigations into allegations of child neglect or abuse by failing to personally interview child who alleged he was inappropriately touched by former employee of child

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welfare agency license by county; investigator's employer arranged for intern employed by county to interview child, and intern conducted interview, as was required by statute. [Drake v. Huber \(App. 1998\) 582 N.W.2d 74, 218 Wis.2d 672](#), review denied [585 N.W.2d 156, 220 Wis.2d 364](#). Infants  13


Child welfare investigator's arranging for intern employed by county to interview child did not compromise statutorily mandated independence of investigation into allegations that former employee of child welfare agency inappropriately touched child, where county was authorized by statute to conduct entire independent investigation. [Drake v. Huber \(App. 1998\) 582 N.W.2d 74, 218 Wis.2d 672](#), review denied [585 N.W.2d 156, 220 Wis.2d 364](#). Infants  13

In connection with a county department of social services investigation of allegations of child abuse and neglect, school personnel cannot condition on-site interviews on notification of the child's parents. 79 Op.Atty.Gen. 49 (1990).

As regards the investigation of suspected child abuse or neglect, staff members of a county department of social services may interview the child on public school property, and may exclude school personnel from the interview. 79 Op.Atty.Gen. 49 (1990).

13. ---- Search and seizure, investigation



Entry of defendant's home by police officer and social worker who were investigating a child abuse report was a "search" within meaning of [Const. Art. 1, § 11](#) and [U.S.C.A.Const.Amend 4](#), and a warrant was therefore required for the intrusion unless it was justified under an exception to the warrant requirement, notwithstanding fact that social worker initiated intrusion, since she was acting as a government official when she went to defendant's home. [State v. Boggess \(1983\) 340 N.W.2d 516, 115 Wis.2d 443](#). Searches And Seizures  13.1

The warrantless entry of defendant's home by police officer and social worker who were investigating a child abuse report was justified under the emergency doctrine, since evidence of social worker's actions at defendant's home supported finding that social worker and police officer were motivated by an intent to render aid or assistance to the children, and evidence that unidentified caller gave specific information based on his observations of the children sustained finding that officer and social worker had a reasonable belief that an emergency existed. [State v. Boggess \(App. 1982\) 328 N.W.2d 878, 110 Wis.2d 309](#), affirmed [340 N.W.2d 516, 115 Wis.2d 443](#). Searches And Seizures  42.1

14. ---- Contracts for reports or investigations


A county department of social services or county department of human services may not contract with other agencies to obtain § 48.981 reporting or investigatory services in situations other than the performance of independent investigations required by § 48.981, subsec. (3)(d); a cooperative contract might be possible under § 66.30, subsec. (2) in order to effectuate its purpose, but the services must be furnished by the county department, as defined in [§ 48.02](#), subsec. (2g), and not by any other public or private agency. 76 Op.Atty.Gen. 286, (1987).

15. Removal of child


This section, mandating that appropriate services be provided to family of child determined by county welfare agency to be in need of services does not limit emergency procedures for taking child into custody and there is no violation of substantive due process rights by failure of welfare agency to offer social services before removal of child from parents' home. [Donald v. Polk County, W.D.Wis.1986, 649 F.Supp. 1408](#), affirmed [836 F.2d 376](#). Constitutional Law  274(5); Infants  192


16. Provision of services


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Parents' right, under this section, to receive social services was not constitutionally protected right, and thus parents failed to establish essential element for their § 1983 claim following state's seizure of their allegedly abused child. [Donald v. Polk County, C.A.7 \(Wis.\)1988, 836 F.2d 376](#). Civil Rights  1057


17. Immunity--In general


Former employee of licensed child welfare agency produced no evidence of statutory violations, much less conscious, intentional or malicious statutory violations, arising from investigator's conduct during investigation into allegations that employee inappropriately touched child, and, thus, investigator was immune from liability under statute governing investigations into alleged child neglect or abuse. [Drake v. Huber \(App. 1998\) 582 N.W.2d 74, 218 Wis.2d 672](#), review denied [585 N.W.2d 156, 220 Wis.2d 364](#). Infants  17


Fact that parents reported child's allegations of sexual contact by teacher to school administrator, rather than to county department or police did not preclude parents' immunity from suit by accused teacher under statute requiring school teacher, administrator or counselor to report child's allegations of abuse or neglect to county department or sheriff or police department, where parents reported allegations of sexual contact to school administrator with understanding and expectation that information would be investigated and, if verified, reported to proper authorities, and administrator reported allegations to county social services department at behest of parents. [Phillips v. Behnke \(App. 1995\) 531 N.W.2d 619, 192 Wis.2d 552](#). Infants  13


Parents' and school administrator's decision to conduct investigation of child's allegation of sexual contact by teacher before reporting allegations to county social services department, as required by statute, was reasonable and did not remove parents and administrator from immunity under reporting statute on ground that they failed to immediately report child's allegations to proper authorities. [Phillips v. Behnke \(App. 1995\) 531 N.W.2d 619, 192 Wis.2d 552](#). Infants  13

Requirement that school teacher, administrator or counselor immediately report to county department or sheriff or police department child's allegations of abuse or neglect is not prerequisite to immunity under statute, but is intended to facilitate timely reporting of information to proper authorities. [Phillips v. Behnke \(App. 1995\) 531 N.W.2d 619, 192 Wis.2d 552](#). Infants  13


Investigating reasonableness of one's belief that teacher has engaged in sexual misconduct with child prior to making report to proper authorities under reporting statute is proper and does not deprive reporting individual of immunity under statute. [Phillips v. Behnke \(App. 1995\) 531 N.W.2d 619, 192 Wis.2d 552](#). Infants  13

Subsection (4) of this section providing immunity to mental health professional making report of hospital abuse or neglect of child does not differentiate between those who make initial reports, preliminary investigative reports, or investigative reports. [E.S. by D.S. v. Seitz \(App. 1987\) 413 N.W.2d 670, 141 Wis.2d 180](#). Health  768

Psychologist was a "mental health care professional" entitled to immunity for making report of suspected abuse or neglect of child. [E.S. by D.S. v. Seitz \(App. 1987\) 413 N.W.2d 670, 141 Wis.2d 180](#). Health  768


Psychologist's treatment of child, which allegedly inflicted emotional distress, was not child abuse or neglect so as to deprive psychologist of immunity with respect to making report of suspected child abuse or neglect. [E.S. by D.S. v. Seitz \(App. 1987\) 413 N.W.2d 670, 141 Wis.2d 180](#). Health  768


18. ---- Good faith, immunity


Negligence does not rise to level of "bad faith," within meaning of statute immunizing from liability any teacher, administrator, or counselor or other person who makes report of child's allegation of abuse or neglect in good faith to proper authorities. [Phillips v. Behnke \(App. 1995\) 531 N.W.2d 619, 192 Wis.2d 552](#). Infants  13

Teacher's conclusory allegation in complaint that parents reported child's allegation of sexual contact by teacher in


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bad faith was insufficient to rebut parents' and school administrator's prima facie case for summary judgment on teacher's negligence claim against parents and administrator on basis of immunity provisions of statute requiring teacher, administrator, or counselor to report to proper authorities child's allegations of abuse or neglect. [Phillips v. Behnke \(App. 1995\) 531 N.W.2d 619, 192 Wis.2d 552](#). Judgment  185.3(21)


Failure of trial court to permit discovery before granting summary judgment to parents and school administrator in teacher's suit alleging bad faith by parents and administrator in reporting sexual contact by teacher with child did not preclude summary judgment in favor of parents and administrator under immunity provisions of statute requiring teacher, counselor, or administrator to report to proper authorities child's allegations of abuse or neglect, where there were no factual underpinnings to support teacher's claim that parents and administrator failed to act in good faith in making report. [Phillips v. Behnke \(App. 1995\) 531 N.W.2d 619, 192 Wis.2d 552](#). Judgment  186

Court presumed good faith of psychologist in making report of possible child abuse, so as to entitle her to immunity from subsequent civil action for having made the report. [E.S. by D.S. v. Seitz \(App. 1987\) 413 N.W.2d 670, 141 Wis.2d 180](#). Health  768


19. Violation--Reasonable cause to suspect


Reasonable cause requirement under this section examines totality of facts and circumstances actually known to, and is viewed from standpoint of, person possessing suspicion; thus, test becomes whether prudent person would have reasonable cause to suspect child abuse if presented with same totality of circumstances as that acquired and viewed by defendant. [State v. Hurd \(App. 1986\) 400 N.W.2d 42, 135 Wis.2d 266](#). Infants  13


20. ---- Willful failure to report, violation


To convict defendant of failing to report child abuse that defendant had reasonable cause to suspect, State is required to prove beyond reasonable doubt that defendant not only failed to report suspected child abuse, but that defendant did so wilfully. [State v. Hurd \(App. 1986\) 400 N.W.2d 42, 135 Wis.2d 266](#). Infants  20

21. Disclosure of reports or records

To make an unauthorized disclosure under statute requiring one receiving report of alleged child abuse or neglect not to disclose report to unauthorized parties, recipient must have been previously unaware of information at time of communication. [State v. Polashek \(2002\) 646 N.W.2d 330, 253 Wis.2d 527](#), reconsideration denied [653 N.W.2d 894, 257 Wis.2d 123](#). Infants  13.5(1)

Definition of "disclose," in statute requiring one receiving report of alleged child abuse or neglect not to further disclose report to unauthorized parties, is question of statutory interpretation, which Supreme Court reviews de novo. [State v. Polashek \(2002\) 646 N.W.2d 330, 253 Wis.2d 527](#), reconsideration denied [653 N.W.2d 894, 257 Wis.2d 123](#). Infants  13.5(1)

Under statute that imposes criminal sanctions for disclosing the identity of child abuse reporter to the subject of report or to child's parent, guardian, or legal custodian, recipient's previous knowledge of that information does not alter the fact that a disclosure was made. [State v. Polashek \(App. 2001\) 630 N.W.2d 545, 246 Wis.2d 627](#), review granted [635 N.W.2d 781, 247 Wis.2d 1031](#), affirmed in part, reversed in part [646 N.W.2d 330, 253 Wis.2d 527](#), reconsideration denied [653 N.W.2d 894, 257 Wis.2d 123](#). Infants  133

Statute that imposes criminal sanctions for disclosing identity of child abuse reporter to the subject of report or to child's parent, guardian, or legal custodian creates a strict liability offense. [State v. Polashek \(App. 2001\) 630 N.W.2d 545, 246 Wis.2d 627](#), review granted [635 N.W.2d 781, 247 Wis.2d 1031](#), affirmed in part, reversed in part [646 N.W.2d 330, 253 Wis.2d 527](#), reconsideration denied [653 N.W.2d 894, 257 Wis.2d 123](#). Infants  133

A district attorney or corporation counsel may reveal the contents of a report, or the identity of a mandatory reporter,


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made under § 48.981 in the course of a criminal prosecution or one of the civil proceedings enumerated under § 48.981(7)(a)10 for actions involving abused or neglected children, but should protect the identity of the reporter without impairment of the district attorney's ability to present the state's case or the Constitutional or statutory duty to disclose evidence. Op.Atty.Gen. 10-93, Aug. 3, 1993.


Members of a social services board in a county with a county executive or a county administrator may be granted access to child abuse and neglect files pursuant to Subsection (7)(a)2 of this section if such access is necessary to allow them to perform their statutory duties. 79 Op.Atty.Gen. 212 (1990).

Disclosure of reports and records to the subject of a report and to the subject's attorney is mandatory if the subject requests disclosure in writing. 77 Op.Atty.Gen. 84 (1988).


22. Private right of action

Wisconsin's reporting statute which requires school administrators to report injuries or other abuse inflicted on children did not provide private cause of action and, thus, student who was allegedly abused by priests while he attended seminary could not bring negligence action under reporting statute against priests' supervisors, seminary, or province governing seminary for failure to report purported sexual abuse of student; at time of alleged sexual abuse, reporting statute was purely criminal in nature. [Isely v. Capuchin Province, E.D.Mich.1995, 880 F.Supp. 1138](#).
Action  3


23. Defenses


"Wilfully" requirement for conviction of failing to report suspected child abuse allows defendant to raise defenses such as mistake, neglect, or misadventure that caused failure to report, but does not allow defense that defendant was unaware of statutory duty to report child abuse. [State v. Hurd \(App. 1986\) 400 N.W.2d 42, 135 Wis.2d 266](#). Infants  13

24. Evidence

Evidence that counselor at youth ranch told defendant, the administrator at ranch, on several occasions that another employee was making "advances" toward boys and that defendant had previously expressed his low opinion of competency of law enforcement and social service agencies raised jury question as to whether defendant wilfully failed to report suspected child abuse. [State v. Hurd \(App. 1986\) 400 N.W.2d 42, 135 Wis.2d 266](#). Infants  20

25. Strict liability

State's failure to raise in trial court issue of whether statute prohibiting unauthorized disclosure of confidential information relating to reports of suspected child abuse or neglect was a strict liability statute did not waive issue for appellate review, since issue involved question of law that had been addressed by both parties, and issue was of sufficient public interest to merit a decision. [State v. Polashek \(2002\) 646 N.W.2d 330, 253 Wis.2d 527](#), reconsideration denied [653 N.W.2d 894, 257 Wis.2d 123](#). Criminal Law  1030(3)

Statute imposing criminal sanctions for unauthorized disclosure of confidential information relating to reports of suspected child abuse or neglect creates a strict liability offense. [State v. Polashek \(2002\) 646 N.W.2d 330, 253 Wis.2d 527](#), reconsideration denied [653 N.W.2d 894, 257 Wis.2d 123](#). Infants  13.5(1)

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