

## MANDATORY REPORTING

### **AUTHORITY**

2015 Wisconsin Act 367; Wisconsin State Statute 48.981

### **REPORTING REQUIREMENT**

It is the policy of the Department that staff shall report when there is a reasonable cause to suspect abuse or neglect has occurred, or have a reason to believe that a youth has been threatened with abuse or neglect, or that physical abuse or neglect of the youth will occur. Any staff having reasonable cause to suspect that a minor has been abused or neglected shall immediately report that information to the County Agency, Sheriff's Office, or City Police Department. The staff shall comply with any request for a written report concerning the incident. If the staff has reason to believe that a youth was the perpetrator of abuse or neglect, a mandatory custody shall occur and the agent will conduct a violation investigation.

Please refer to the [Mandatory Reporting Policy 100.01.11.](#)

Statutes regarding the mandatory reporting of sexually active youth are complex with different instructions depending on the nature of the sexual contact and age of the youth.

Below is a list of when to report situations involving sexual contact and sexual intercourse:

- Sexual intercourse or sexual contact with a child 15 years of age or younger (consent is not a consideration)
- Sexual intercourse or sexual contact with a child 16 or 17 years old when the youth does not consent
- Sexual intercourse or sexual contact with a child that is defined as sexual abuse per Wisconsin State Statute.
- Child sex trafficking
- Sexual exploitation of a child
- Permitting or encouraging a child to engage in prostitution
- Intentionally causing a child to view or listen to sexually explicit conduct for the purpose of sexually gratifying oneself or sexually humiliating the child
- Exposing oneself to a child or causing the child to self-expose for the purpose of sexually gratifying oneself or sexually humiliating the child

**Consent:** with regard to sexual assault, words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact, Wis. Stat. sec. 940.225(4). In addition, a 1983 Attorney General's opinion concludes consent is not an issue for sexual contact involving children under the age of 16 years. Specifically, "Since sexual contact or intercourse with any child under the age of sixteen years is a sexual assault, regardless of whether consent was given, section 940.225(1)(d), (2)(e) and (4), all sexual conduct involving children in that age group must be reported," Ref. 72 Atty. Gen. 93.

**Sexual contact:** any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading or sexually humiliating the complainant or sexually arousing or gratifying the defendant: 1) intentional touching by the defendant or, upon the defendant's instruction, by another person, by the use of any body part or object, of the complainant's intimate parts; or 2) intentional touching by the complainant, by the use of any body part or object, of the defendant's intimate parts or, if done upon the defendant's instructions, the intimate parts

of another person, Wis. Stat. sec. 948.01(5)(a). Reference also Wis. Stat. sec. 948.01(5)(b) and (c).

**Sexual intercourse:** vulvar penetration as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required, Wis. Stat. sec. 948.01(6).