

# **Stearns County Child Maltreatment Screening Criteria**

(An adaptation of Minnesota  
Child Maltreatment Screening Guidelines)

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## **I. Introduction**

### **A. Purpose of Statewide Guidelines**

The purpose of the Child Maltreatment Screening Guidelines is to provide direction to county social service agencies; to promote statewide consistency in definition and practice; and to inform the general public about types of child safety concerns that should be reported. Families and communities are best served when child maltreatment screening guidelines are clearly understood and readily available.

These guidelines are based on Minnesota Statute 626.556, Reporting of Maltreatment of Minors.

### **B. State Policy**

It is the policy of the state of Minnesota “to protect children whose health or welfare may be jeopardized through physical abuse, neglect or sexual abuse. While it is recognized that most parents want to keep their children safe, sometimes circumstances or conditions interfere with their ability to do so. When this occurs, families are best served by interventions that engage their protective capacities and address immediate safety concerns and ongoing risks of child maltreatment.” [M.S. 626.556, subd. 1]

### **C. Where to Report**

1. Local child welfare agencies respond to reports alleging child maltreatment in family settings which include: family homes, relative homes, family child care, unlicensed personal care service organizations, foster care and juvenile correctional facilities. [M.S. 626.556, subd. 10 (a)-(h), subd. 3c]
2. Reports of maltreatment may also be made to local law enforcement agencies. Minnesota statutes require cross notification between law enforcement and local child welfare agencies when either agency receives a report of child physical abuse, sexual abuse or neglect. [M.S. 626.556, subd. 7] Child safety emergencies should be made directly to local law enforcement for immediate intervention. Only law enforcement officers have the authority to immediately place children in safe settings outside the family home without a court order.
3. Reports alleging child maltreatment in licensed facilities such as schools, daycare centers, group homes, residential treatment facilities, and hospitals are to be reported to the agency responsible for licensing the facility. This would include state agencies such as the Departments of Education, Health and Human Services. Knowing where to report maltreatment in these situations may be difficult to determine, however, reporters can call their local county child welfare agency for

assistance and direction. Child protection screeners at the local agency will help to sort out where the report should be filed and contact information will be provided. A telephone directory for all county child welfare agencies in Minnesota is located on the Minnesota Department of Human Services public Web page. [[www.dhs.state.mn.us](http://www.dhs.state.mn.us)]

4. Child protection reporting contacts other than the local child welfare agency include:
  - a. The Minnesota Department of Human Services, Division of Licensing, (651) 297-4123, for reporting alleged maltreatment by staff at:
    - Child daycare centers
    - Residential treatment centers
    - Group homes
    - Shelter placements
    - Minor parent programs
    - Chemical dependency treatment programs for adolescents
    - Waivered service programs
    - Crisis respite care programs
    - Residential service programs for children with developmental disabilities
  - b. The Minnesota Department of Health, Office of Health Facility Complaints, (651) 215-8702, or (800) 369-7994, for reports occurring in:
    - Home health care settings
    - Hospitals
    - Regional treatment centers
    - Nursing homes
    - Intermediate care facilities for children with developmental disabilities
    - Reports involving licensed and unlicensed care attendants
  - c. The Minnesota Department of Education, (651) 582-8546, for reporting alleged maltreatment by staff when a child is a student in:
    - Public pre-school
    - Elementary school
    - Middle school
    - Secondary school
    - Charter school

- d. Local law enforcement agencies for reporting emergencies that require an immediate police response for the safety of the child. Only law enforcement, or the courts, have authority to involuntarily remove a child from their home for reasons of imminent harm.
5. Law enforcement and local child welfare agencies are required to cross notify each other when reports of abuse or neglect to a minor are received.
6. Mandated reporters may meet their obligations to report abuse or neglect caused by a child's parent(s), guardian(s) or caretaker(s) by reporting to either the local law enforcement agency or the local child welfare agency.

#### **D. Mandated Reporters and Voluntary Reporting**

Mandated reporters - A mandated reporter who knows or has reason to believe a child is being neglected or physically or sexually abused, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local social service agency, or to law enforcement. Mandated reporters may report abuse or neglect that is beyond the required three-year time limit [M.S. 626.556, subd. 3(a)]

Reporters of past (non-current) child maltreatment will be evaluated for acceptance based on factors such as, but not limited to:

- The current risk to a child or other children in the household
- The age and vulnerability of a child
- The nature, severity, and extent of the reporter abuse
- The extent of negative side effects of the maltreatment that a child (ren) is reported to be experiencing at the time of the report.
- Consideration will be given to whether the alleged abuser is residing in another household with child(ren), and whether the nature of the past report would reasonably pose a current risk to a child(ren).

The law requires "professionals or professional's delegate who are engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, correctional supervision, probation and correctional services, or law enforcement" to report. [M.S. 626.556, subd. 3 (a)(1)] Persons also required to report are "employed members of the clergy" who receive the information while engaged in ministerial duties. [M.S. 626.556, subd. 3 (a)(2)] Members of the clergy are not required to report information that is otherwise considered privileged under M.S. 595.02, subd. 1(c). This, in

part, refers to information received in a confession by a member of the clergy, or other minister of any religion, and also applies to communication made by a person seeking religious or spiritual advice.

Voluntary reporters – Minnesota’s Reporting of Maltreatment of Minors Act allows anyone to report incidents of child maltreatment. Voluntary reports may report maltreatment, and are encouraged to do so.

#### **E. Reports Must Meet a Minimum Threshold**

When receiving a report of child maltreatment, county child protection staff must first determine whether the report meets the legal definition of child maltreatment. By law, only reports that meet statutory requirements can be accepted. At times there may be inadequate information to begin an assessment or investigation. Once a report is accepted, it is assigned to one of two child protection response types, either Family Assessment or Investigative Response.

#### **F. County Jurisdiction for Reports Alleging Imminent Danger**

In a situation of imminent danger, the local child welfare agency shall screen and assess reports of maltreatment of any child found in the county without regard to the legal residence of the child. Counties shall also screen and assess reports of child maltreatment that include the death of a child.

#### **G. Customized Responses to Reports of Alleged Child Maltreatment**

**1. Investigative Response.** Investigations are designed to respond to the most serious reports of harm and neglect to children. Reports of child maltreatment that define substantial child endangerment to include categories of egregious harm, physical and sexual abuse, and reports of high risk neglect. [M.S. 626.556, subd. 2 (c) (1) – (13)] Investigations are sometimes conducted with law enforcement as part of a police investigation. Depending on the circumstances of the report, the local child protection agency may decide to assign a report not involving substantial child endangerment for an investigation.

The focus of an Investigative Response centers on gathering facts and assessing family protective capacities related to child safety. This leads to a determination of whether child maltreatment occurred and whether child protective services are needed.

**2. Family Assessment Response.** Reports not involving substantial child endangerment may be assigned for a Family Assessment. A Family Assessment involves an evaluation of a child’s safety, the risk for subsequent child maltreatment, and the family’s strengths and needs. The focus of Family Assessment is to engage the family’s protective

capacities and offer services that address the immediate and ongoing safety concerns of a child. Family Assessment uses strength-based interventions and involves the family in planning for and selecting services. Resources in the family's community are identified and the family's involvement is encouraged on a voluntary basis. If additional information is presented that requires an investigation, or if a family does not complete the Family Assessment, or does not follow through with recommended services to address child safety, the response may be changed to an investigation.

Family Assessment is the preferred response when conditions of safety permit. [M.S. 626.556, subd. 1] The majority of reports accepted for a child protection response in Minnesota are assigned for a Family Assessment. Research concerning Minnesota families provides compelling evidence that most children are safer under a Family Assessment Response, especially when they are provided the resources and services they need.

- 3. Child Welfare.** Limited services, including information and referral, are available in some counties as a response to reports of alleged child maltreatment that do not qualify for a child protection investigation or Family Assessment.

These services are voluntary and intended to provide short-term support to address family needs. The goal of child welfare intervention is to provide services that will help the family to overcome presenting obstacles and prevent future entry into the child protection system. The Parent Support Outreach Program is one example of a Child Welfare Response. [www.dhs.state.mn.us]

#### **H. Child Protection Response Times**

Minnesota statutes require that accepted reports alleging substantial child endangerment have an immediate face-to-face contact with the child and their caretaker. [M.S. 626.556, subd. 10 (h) (4)(i)]

Minnesota law also requires that reports assigned for a Family Assessment Response include face-to-face contact with the child and the primary caretaker within five calendar days. [M.S. 626.556, subd. 10 (h) (4) (i)]

Investigations and Family Assessments must be concluded within 45 days. [M.S. 626.556, subd. 10e (a)]

#### **I. Strength-based Screening Practices**

Family-centered practice begins at the point of screening. Gathering strength-based information from mandated and voluntary reporters who

are concerned about child safety affirms family-centered practice and challenges negative assumptions that may exist about families. Seeking information about strengths allows for the earliest possible identification of protective factors; encourages a broader view of the family; and gives a more complete picture of child safety concerns. Information about strengths and protective capacities will enhance the intervention with the family. Social workers can address child safety concerns with positive information in their first contact with the parent(s). This can help to minimize the confrontational experience, enhance cooperation, and may reduce negative feelings the parent(s) may have about the child protection intervention. For more information on strength-based practices, refer to the DHS Family-centered Practice Guide on the DHS Web site.

#### **J. Poverty and Disproportionate Racial Representation**

Minnesota Statute [M.S. 626.556, subd. 2 (f) (1)-(9)] defines neglect by caretakers as the failure to provide for a child's basic needs "when reasonably able to do so." At times, conditions of poverty create circumstances in which a child may be neglected due to the parent(s)' lack of financial resources. Under these circumstances, counties work to assist the parent(s) in correcting the conditions of neglect and to meet the protective needs of their child, but do not define their behavior as neglectful. Quite often the role of poverty is not understood at the time a report is made, and is established later during the assessment or investigation phase. When it is determined that reports of neglect are based solely on conditions due to poverty, a finding of maltreatment should not be made.

Children of color are disproportionately referred by community reporters to Minnesota's child welfare system. National and local research indicates that some of this disproportionate representation may be due to factors other than true differences in maltreatment occurrence. Several national research studies have found that families of color do not abuse or neglect their children at a higher rate than Caucasian families when differential exposure to child maltreatment risk factors are controlled.<sup>1</sup>

Neither the race nor income of the child or the family should be a factor when deciding to make a report of maltreatment. Child safety issues alone should guide decisions made at the point of referral. Screeners and persons who conduct assessments or investigations shall take into account accepted child-rearing practices of the culture in which a child participates that are not injurious to the child's health, welfare and safety. [M.S. 626.556, subd. 2 (o)]

"A Practice Guide for Working with African American Families in the Child Welfare System" is available on the DHS Web site. The guide serves as a resource and reference manual for caseworkers as they engage African

American families in effective service delivery. Child welfare interventions with American Indian families must comply with the requirements of the federal Indian Child Welfare Act, US Code, title 25, sec. 1901 to 1963, and the Minnesota Indian Family Preservation Act, M.S. 260.751 to 260.835.

## II. Physical Abuse

### A. Physical Abuse [M.S. 626.556, subd. 2 (g) (1)-(10)]

1. Physical abuse means any non-accidental physical injury<sup>2</sup>, mental injury<sup>3</sup>, or threatened injury<sup>4</sup>, inflicted by a person responsible for the child's care. Physical abuse also includes injuries that cannot reasonably be explained by the child's history of injuries.
2. Physical abuse does not include reasonable and moderate physical discipline of a child by a parent or guardian which does not result in injury. Actions which are not reasonable and moderate include, but are not limited to, any of the following which are done in anger or without regard to the safety of the child:<sup>5</sup> [M.S. 626.556, subd. 2 (g)]
  - Throwing, kicking, burning, biting, or cutting a child.
  - Striking a child with a closed fist.
  - Shaking a child under age 3.
  - Striking or other actions which result in any non-accidental injury to a child under 18 months of age.
  - Unreasonable interference with a child's breathing.
  - Threatening a child with a weapon, as defined in M.S. 609.02, subd. 6, includes but is not limited to, firearms, flammable liquids, or any device designed as a weapon.
  - Striking a child under age 1 on the face or head.
  - Purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances, or other substances, which were not prescribed for the child by a health care practitioner, in order to control or punish the child. This also includes giving the child other substances, which substantially affects the child's behavior, coordination, judgment, or results in sickness, internal injury, or subjects the child to medical procedures that would otherwise be unnecessary.Unreasonable physical confinement or restraint [M.S. 609.379] which includes, but is not limited to, tying, caging, or chaining.
  - Reports of bloody noses may be assessed if they are associated facial injuries.
  - Reports of red marks that are not associated with the common physical activities of a child may be assessed if the marks last longer than four hours or the child is under 18 months of age.

- Multiple reports will be reviewed for assessment depending on the age of the child, level of maturity of the child, the frequency of the marks, etc.

**B. Threatened Injury [M.S. 626.556, subd. 2 (n) (1)-(4)] and subd. 2(0)**

1. Threatened injury means a statement, overt act, condition, or status that represents a substantial risk of physical abuse, sexual abuse or mental injury.

Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in M.S. 626.556, subd. 2, (e) (1), who has:

- Subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in M.S. 260C.007, subd. 14, or a similar law of another jurisdiction
- Been found to be palpably unfit<sup>6</sup> under M.S. 260C.301, subd. 1 (b) (4), or a similar law of another jurisdiction
- Committed an act that resulted in an involuntary termination of parental rights under M.S. 260C.301, subd. 1 (b) (4) or
- Been the subject of an involuntary transfer of permanent legal and physical custody of a child to a relative under M.S. 260C.201, subd. 11 (d) (1), or a similar law of another jurisdiction.

(This reference generally applies in situations where the legal custodian transfers the care of a child to a person who was the subject of an involuntary transfer of permanent and legal custody, unless such exposure between the child and that person is expressly permitted by court order.)

- Been the subject of a birth match received by the Social Services Agency from the Dept. of Human Services.

2. Threatened injury includes, but is not limited to:

- An adult holding a weapon to a child or otherwise threatening serious harm, or place a child at risk, such as driving while intoxicated with a child passenger, or exposing them to persons or circumstances that would reasonably place a child at risk for serious harm.

3. Threatened sexual abuse includes, but it not limited to:

- A person threatening to have sexual contact with a child
- A parent, guardian, or person responsible for a child's care, allowing a person who has sexually abused a child to reside in the home with a child, or have unsupervised contact with a child.
- Status of a parent or household member as a registered offender according to M.S. 243.666, subd. 1b(a) or (b).

4. The definition of child sex offender minimally includes, but is not limited to:
  - Persons who have been convicted of criminal sexual conduct (first through fifth degree) involving a child victim (person under age 18)
  - Persons determined to have sexually abused a minor as part of a maltreatment determination conducted by a child welfare agency, or similar agency of another jurisdiction.
  - Persons required to register as a sex offender of a child on the Predatory Offenders Registry, or persons required to register as level three sex offenders.
  
5. Counties may screen in reports of sexual offenders who have offended against adult victims (rather than child victims), based on reasonable judgment that the past offense, or offenses, are of such a nature that a child named in a current report is at significant risk to be sexually abused.

Refer to Helpful Links

6. When domestic violence results in physical abuse, mental injury, threatened injury, sexual abuse, or neglect to a child, it shall be addressed under the relevant criteria<sup>7</sup>.
  
7. Other conditions of domestic violence may meet the definition of threatened injury or mental harm and include, but not limited to, any of the following<sup>8</sup>:
  - When injuries to the parent, caretaker, or offender are potentially life threatening or permanent or the injured person receives internal injuries or other serious injuries, such as broken bones, broken teeth, burns, injuries requiring sutures.
  - When objects are used as weapons in the course of domestic violence, placing the child at immediate risk.
  - When sexual assault occurs in the course of domestic violence.
  - When a child intervenes in the course of domestic violence, such as making a 911 call.
  - When a child inserts themselves as a shield to protect the parent, or a child is used as a shield in an incidence of violence.
  - When kidnapping, threats of kidnapping, suicide, or homicide occur
  - When a child is in fear for their life, or the life of the parent, or the life of the person responsible for their care, or for the life of someone else in relation to the incident.

**C. Mental Injury and Emotional Harm** [M.S. 626.556, subd. 2 (m) and M.S. 626.556, subd. 2 (f) 9, respectively]

1. Mental injury and emotional harm refer to a substantial and observable injury to a child's psychological capacity or emotional stability which is

either inflicted or caused by neglectful behavior on the part of the person responsible for the child's care. Mental injury or emotional harm may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

Reports of mental injury and emotional harm are most often referred by mental health professionals. Maltreatment may be assessed when allegations are supported by written documentation from a mental health professional.

2. Parental behaviors that may be considered when determining whether or not a report will be assessed include, but not limited to:
  - Rejecting – the adult refuses to acknowledge a child's worth, and the legitimacy of their needs
  - Isolating – the adult cuts a child off from normal social experiences, prevents them from forming friendships, and makes a child believe that they are alone in the world
  - Terrorizing – the adult verbally assaults a child, creates a climate of fear, bullies, or frightens them
  - Corrupting – the adult “mis-socializes” a child, stimulates them to engage in destructive antisocial behaviors, and causes the child to be unfit for normal social experiences.

### **III. Sexual Abuse [M.S. 626.556, subd. 2 (d)]**

A. Sexual abuse means criminal sexual conduct with a child by a person responsible for the child's care; [M.S. 626.556, subd. 2 (e)] or by a person who has a significant relationship to the child; [M.S. 609.341, subd. 15] or by a person in a position of authority. [M.S. 609.341, subd. 10].

1. “Person responsible for the child’s care” means
  - an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or
  - an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including but not limited to, day care, babysitting whether paid, or unpaid, counseling, teaching, and coaching.
2. “Significant relationship to the child” means a situation in which the actor is:

- the complainant's parent, stepparent, or guardian;
  - any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or
  - an adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant's spouse.
3. "Position of authority" includes but is not limited to any person who is a parent or acting in the place of a parent and charged with any of a parent's rights, duties or responsibilities to a child, or a person who is charged with any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of the act. For the purposes of subdivision 11, "position of authority" includes a psychotherapist.
4. Criminal sexual conduct includes:
- M.S. 609.342, Criminal Sexual Conduct in the First Degree
  - M.S. 609.343, Criminal Sexual Conduct in the Second Degree
  - M.S. 609.344, Criminal Sexual Conduct in the Third Degree
  - M.S. 609.345, Criminal Sexual Conduct in the Fourth Degree
  - M.S. 609.3451, Criminal Sexual Conduct in the Fifth Degree

The criminal sexual conduct statutes primarily focus on acts of sexual penetration [M.S. 609.341, subd. 12] and sexual contact. [M.S. 609.341, subd. 11]

5. Sexual penetration means:
- Sexual intercourse, cunnilingus, fellatio, or anal intercourse
  - Any behavior involving a child that causes the intrusion, however slight, of any body part or object into the genital or anal openings of the child, offender, or another person
  - When the action is performed with sexual or aggressive intent. [M.S. 609.341, subd. 12]
6. Broadly defined, sexual contact includes:
- Touching of a child's intimate parts
  - Having a child touch their own intimate parts
  - Having the child touch the intimate parts of another person
  - Touching the clothing, or the clothing covering the immediate area of the intimate parts
  - When the act is performed with sexual or aggressive intent. [M.S. 609.341, subd. 11]

7. The definition of intimate parts includes the primary genital area, groin, inner thigh, buttocks or breast of a human being. [M.S. 609.341, subd. 5]
  8. The criminal sexual conduct statutes further specify the following actions:
    - Masturbation or lewd exhibition of the genitals knowingly in the presence of a minor. [M.S. 609.3451, subd. 1 (2)] For the purpose of this guideline, this reference refers to a minor of any age.
  9. The intentional removal or attempted removal of clothing covering the minor's intimate parts [M.S. 609.3451, subd. 1 (2)] or undergarments if the action is performed with sexual or aggressive intent.
  10. The statutory definition of child sexual abuse [M.S. 626.556, subd. 2 (d)] goes beyond the provisions of the criminal sexual conduct statutes to also include:
    - Any act involving a minor which constitutes a violation of prostitution offenses under M.S. 609.321 to M.S. 609.324.
    - The use of a minor in a sexual performance. The definition of sexual performance includes pornographic works involving a minor. [M.S. 617.246]
    - Threatened sexual abuse, which is interpreted for the purposes of these guidelines to include, but not limited to the following for example:
      - Peeping on a child when nude or asking a child to watch sexual activity:
      - Anything said or done that poses a significant danger that the offender will perpetrate, or attempt to perpetrate, sexual abuse with the child.
      - This includes statements, behaviors, or actions that do not have to be overtly aggressive, threatening or coercive, but can be recognized by the child or others as a precursor to sexual abuse.
    - If exposure to adult nudity is a result of lifestyle or casual nudity, the report will not be assessed unless the child reports discomfort or other negative impacts. If the child is negatively impacted, a neglect assessment may be done.
    - When a parent knowingly allows a child to live with, or be cared for by, or have unsupervised contact with a person who has committed a sexual offense against a child.
- B. Other circumstances that may be addressed as sexual abuse include, but are not limited to:

1. Sexual contact between juvenile siblings or children living/visiting together.
2. A minor solicited to engage in sexual conduct, which means: commanding, entreating, or attempting to persuade a minor by telephone, letter, or by computerized or other electronic means
3. Children who have unexplained injuries to their genitals which are suspicious for sexual abuse
4. A child intentionally exposed to sexual activity for the purpose of sexual arousal or sexual gratification, whether it is live, video, written or pictorial
5. Children who have sexually transmitted diseases and with suspicious origin through sexual abuse and not birth related.

#### **IV. Neglect Defined [M.S. 626.556, subd. 2 (f) (1)-(9)]**

Neglect means “the failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so.” [M.S. 626.556, subd. 2 (f) (1)]

At times, conditions of poverty create circumstances in which a child may be neglected due to the parent(s)' lack of financial resources. Under these circumstances, counties work to assist the parent(s) in correcting the conditions of neglect and to meet the protective needs of their children, but do not determine the parents' behavior as neglectful.

- Families experiencing homelessness will be referred to the Service Entry Unit, Family & Children Services Division.
- Reports of a family living in a vehicle, under a bridge, camping due to homelessness, or families barred from shelters due to caretaker's behavior may be assessed. Factors to be considered in homelessness are bathroom facilities and length of time as well as season and age of children.

The following conditions should be considered when screening alleged reports of neglect: the concern poses a significant health or safety hazard, or there is a continuing pattern of neglect that poses a significant health or safety hazard; the age and vulnerability of a child.

#### **Categories of Neglect**

##### **A. Failure to Provide Necessary Food [M.S. 626.556, subd. 2 (f) (1)]**

The lack of necessary food which results in conditions such as, but not limited to:

1. Malnutrition, developmental lags, a demonstrated pattern over time of weakness related to lack of food, low weight and height which is significantly out of the norm and not due to organic causes, or an inability to concentrate in school.
2. A growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect. (M.S. 626.556, subd. 2 (f) (2) (This provision is also cross referenced under Failure to Provide Necessary Medical Care, p. 17.)

**B. Failure to Provide Necessary Clothing** [M.S. 626.556, subd. 2 (f) (1)]

This means failure to provide clothing that is necessary for the weather or other environmental conditions, and the failure to provide this clothing would seriously endanger the child's health. Maintenance of clothing will be considered including periodic laundering and necessary upkeep. In situations where the child is chronically dirty or unbathed, and the school documents that the child is unable to participate in the school setting and/or is shunned by other children due to filth or odor and the caregiver is unwilling or unable to improve the situation, the case may be assessed.

**C. Failure to Provide Necessary Shelter** [M.S. 626.556, subd. 2 (f) (3)]

This means dangerous living conditions which fail to provide protection from weather conditions, or from environmental hazards in the dwelling, or on the property, that has the potential for injury, illness, and/or disease, which are under the control of the parent(s) or guardian(s).

1. Environmental hazards are conditions, when presented either in combination or by severity or degree, that pose a significant health or safety hazard to a child in the home, or on the property where a child resides. The Agency will take into consideration the child's chronological age and mental ability to assess whether there is a significant health or safety hazard.

Examples of environmental hazards include, but are not limited to:

- Failure to provide heat and sanitation that poses a safety risk
- Broken windows or glass, open windows or unsafe windows that reasonably pose a hazard to child safety
- Gas leaks
- Dangerous drugs, controlled substances, or household poisons that are accessible to children

- Exposed electrical wiring, unprotected space heaters, discarded refrigerators with doors, open wells without covers, or blocked exits due to extreme clutter
  - Spoiled food that would pose a health hazard if consumed
  - Animal waste, feces, infestations of rodents and insects
  - Guns that are not safely stored.
2. Methamphetamine-related environmental hazards. Parent(s) or caretaker(s) knowingly engage in any of the following activities in the presence of a child; in the residence where a child resides; in a building, structure, conveyance or outdoor location where a child might reasonably be expected to be present; or in a room offered to the public for overnight accommodation; or in any multiple unit residential building. Referenced from criminal statute M.S. 152.137, subd. 2:
- Manufacturing or attempting to manufacture methamphetamine
  - Storing methamphetamine waste products
  - Possessing precursors of a controlled substance on any property where a child resides or visits, or in another location where a child has access. (For the purposes of the criterion, the definition of controlled substance and the amounts that would qualify as a “precursor” are provided in M.S. 152.02, subd. 6.)

According to M.S.152.137, Subd. 2, (a) “No person may knowingly engage in any of the following activities in the presence of a child or vulnerable adult; in the residence of a child or a vulnerable adult; in a building, structure, conveyance, or outdoor location where a child or vulnerable adult might reasonably be expected to be present; in a room offered to the public for overnight accommodation; or in any multiple unit residential building:

1. Manufacturing or attempting to manufacture methamphetamine;
2. Storing any chemical substance;
3. Storing any methamphetamine waste products; or
4. Storing any methamphetamine paraphernalia.

(b) No person may knowingly cause or permit a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest methamphetamine, a chemical substance, or methamphetamine paraphernalia.

Additionally, reports from the community alleging methamphetamine use and/or manufacturing will be cross-reported to law enforcement. Upon law enforcement reporting confirmed use and/or manufacturing, a maltreatment assessment will be conducted.

**D. Failure to Provide Necessary Medical Care** [M.S. 626.556, subd. 2 (f) (7)]

Failure to provide necessary medical care means the refusal, failure to seek, failure to obtain, or the failure to follow through with necessary medical care if there is serious risk to a child, as documented in:

1. Reports from health care professionals alleging medical neglect which contain the following three elements:
  - Identification of the medical problem or condition that needs attention, and identification of recommended intervention(s)
  - Identification of serious risk to a child's physical or mental health if the child does not receive the necessary medical treatment
  - Documentation of parent(s)' failure to provide needed intervention(s)
2. Nothing in this section should be construed to mean that a child is neglected solely because the child's parent(s), guardian(s), or other person(s) responsible for the child's care, in good faith, selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care. [M.S. 626.556, subd. 2 (f) (5)]
3. The child welfare agency may petition the court if the lack of medical care substantially endangers the child's health.
4. Failure to thrive that has been diagnosed by a physician and is due to parental neglect is a condition of medical neglect. (Further statutory definition under Failure to Provide Necessary Food, p. 15.)

**E. Failure to Provide Health or Other Care** [M.S. 626.556, subd. 2 (f) (1)]

Health or other care means the parent(s)' failure to provide necessary care that is required for a child's physical or mental health when reasonably able to do so. This is intended to include, but not limited to, persistent conditions of personal hygiene so extreme that the child is unable to participate in a community or school setting.

Reports of head lice and/or bed bugs will be initially referred to the Public Health Division for intervention.

**F. Failure to Ensure Education** [M.S. 626.556, subd. 2 (f) (4)] Failure to ensure education means the person responsible for the child's care has not ensured that the child is enrolled in school, and is attending school according to the expectations of the school district, and that the child is not

otherwise in compliance with the statutory requirements defined in M.S. 120A.22 and M.S. 260C.163, subd.11.

1. A child's absence from school is presumed to be due to the parents', guardian's, or custodian's failure to comply with compulsory instruction laws, M.S. 260C.163, subd. 11 (a)-(b), if:
  - The child is under 12 years old, and
  - The school has made appropriate efforts to resolve the child's attendance problems.
  
2. Failure to ensure education does not include the parent(s)' refusal to provide their child with sympathomimetic medications, such as those frequently used to treat Attention Deficit Disorder (ADD) or Attention Deficit Disorder with Hyperactivity (ADHD). [M.S. 626.556, subd. 2, (f)(4)]
  
3. The ages that a child is required to attend school are provided in M.S. 120A.22, subd. 5 and M.S. 260C.007, subd. 19. They include:
  - Children under age 7 who are enrolled in half day or full day kindergarten are subject to mandatory attendance requirements and must receive instruction.
  - A parent may withdraw a child from school for good cause by notifying the district as provided under M.S. 120A.22, subd. 6 (c). Good cause includes, but is not limited to, enrollment of the pupil in another school, or the immaturity of a child.
  - Every child between 7 and 16 years of age must receive instruction.
  - Students between ages 16 and 18 are also required to attend school unless legally withdrawn. The steps to legally withdraw a student between ages 16 and 18 are outlined in M.S. 120A.22, subd. 8 and include the following:
    - The student and parent or guardian must attend a meeting with school personnel to discuss the educational opportunities available to the student, including alternative education opportunities.
    - The student and parent or guardian must sign a written notice of intention to withdraw the child from school.
  
4. The statutory standards for school attendance are provided in M.S. 260C.007, subd. 19, and are stated in terms of limits allowed for unexcused absences which are:
  - Unexcused absences for seven days for a child in elementary school Absences of one or more class periods on seven school days if the child is in middle school, junior high school, or high school

- Those 16 or 17 years of age are held to the same standards as middle and junior high school students, unless a student has been lawfully withdrawn from school.

Note: Home schooling is a legal option and not considered educational neglect, providing the family has followed through with meeting the requirements of the school district.

**G. Failure to Protect a Child from Conditions or Actions that Present Serious Endangerment [M.S. 626.556, subd. 2 (f) (2)]**

“Failure to protect means the failure to protect a child from conditions or actions that seriously endanger the child’s physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as failure to thrive that has been diagnosed by a physician and is due to parental neglect.” [M.S. 626.556, subd. 2 (f) (2)]

Examples of parental failure to protect would include, but not limited to:

1. A child is present and/or participates with the parent(s), guardian(s), or caretaker(s) in committing a criminal act that seriously endangers a child’s physical or mental health. Serious endangerment in these situations includes, but is not limited to, the use of guns, knives, or other weapons, and also threats of violence, or actions resulting in harm to the victim.
2. The parent(s), guardian(s), or person(s) responsible for a child’s care do not protect them from a person who poses a serious threat to the child’s safety, or from a person that presents a sexual threat and the parent(s) or caretaker(s) do not act to protect the child.
3. Reports of ongoing abuse between siblings that result in physical injury and the parent(s) or caretaker(s) do not act to protect a child.
4. Parent(s), guardian(s), or other person(s) knowingly allow a child to have unsupervised contact with an untreated sex offender. (This constitutes threatened sexual abuse, and should be screened in as child sexual abuse as stated on p. 10.)
5. Parent(s), guardian(s), or other persons responsible for a child’s care are arrested for driving under the influence of alcohol or drugs, with children in the vehicle.
6. Drug raids where a child is present and where illegal drugs are found. *Maltreatment may be assessed as a result of a law*

*enforcement search warrant, drugs found, caregiver arrested and child present.*

7. Children under 12 who are reported to have access to loaded firearms when there is no adult supervision and who is alleged to be in violation of Minn. Stat. 609.666.
8. Children who have been left alone and unsupervised in a motor vehicle taking into consideration the age of the child, the weather conditions, the length of time the child was unsupervised, the location, the maturity level of the child, etc.

**H. Child Abandonment** [M.S. 626.556, subd. 2 (c) (3) and M.S. 260C.301, subd. 2]

1. Child abandonment is addressed by local county agencies under the conditions of neglect and may provide the basis for a court determination of a Termination of Parental Rights.
2. Child abandonment meets the statutory definition of substantial endangerment when one of the two following conditions is met:
  - The parent has had no contact with the child on a regular basis and has not demonstrated consistent interest in the child's well-being for six months, and the social services agency has made reasonable efforts to facilitate contact.
  - When a child is abandoned under 2 years of age, and has been deserted by the parent(s) under circumstances that show intent not to return to care for the child. [M.S. 260C.301, subd. 2]

It would not be considered abandonment if the parent can establish that they were prevented from making contact with the child due to extreme financial or physical hardship; treatment for a mental disability or chemical dependency; or other good cause.

**I. Failure to Provide Necessary Supervision or Child Care Arrangements** [M.S. 626.556, subd. 2 (f) (3)]

Failure to provide for necessary supervision or child care arrangements occurs when a child is unable to provide for their own basic needs or safety, or the basic needs or safety of another child in their care. [M.S. 626.556, subd. 2 (3)]

1. Modifying factors affecting screening decisions include:
  - A child's age, mental ability and maturity level.
  - The accessibility of the parent/guardian/or designated caretaker to the child by phone and/or in person.

- The presence of intellectual deficits, psychological problems, or mental health concerns; the existence of physical problems or disabilities.
  - The behavioral history of a child, including suicidal thoughts or actions, fire setting, delinquency, vandalism, or assault.
  - A child's age, if using the kitchen stove, an iron, or other appliance.
  - The establishment of a well understood emergency escape plan that has been worked out by the parent(s), and has been rehearsed with a child. The presence of a working fire/smoke detector in the home.
  - The presence of unusual hazards in the home.
  - A child feeling confident and safe when left alone.
  - The understanding of emergency procedures by the child (i.e. 911 fire, tornado).
  - Availability of monitoring devices.
2. Examples of parent(s) not providing adequately for a child's supervision and safety includes, but not limited to:
- Failing to provide supervision of children in bathtubs, near swimming pools, lakes, ponds, holding tanks, machinery, busy streets and alleys.
  - Selecting an unreliable person to provide child care.
3. Reports alleging inadequate supervision or child care arrangements may be screened in for a child protection response, including:
- Children ages birth to 5 are never to be left unattended/unsupervised.
  - For children ages 6 – 10, the agency will take into consideration the totality of circumstances around the situation including the factors under #1 above. Typically school age children may be left unattended for one hour for each grade the child is in. (A 4<sup>th</sup> grader may be left unattended for four hours.)
  - Children ages 11-13 who are left alone for more than 12 hours.
  - Children ages 14-15 who are left alone for more than 24 hours.
  - Children ages 16-17 may be left alone for over 24 hours with a plan in place concerning how to respond to an emergency.
4. Reports alleging inadequate child care arrangements may be screened in for a child protection response according to the following guidelines:
- Children under age 11 should not provide child care.

- Children ages 11-15 who are placed in a child care role are subject to the same time restrictions of being left alone as listed above.
- Children ages 16-17 may be left alone for more than 24 hours with adequate adult back up supervision.

Note: If children are left alone at the time the report is received by the local child welfare agency, and the circumstances fall outside of the timelines listed above, the local agency may refer the matter to local law enforcement for a child welfare and safety check.

#### **J. Prenatal Exposure to Controlled Substances or Their Derivatives**

[M.S. 626.556, subd. 2 (f) (6), M.S. 626.5561 and M.S. 253B.02]

This means the prenatal exposure to a controlled substance, as defined in M.S. 253B.02, subd. 2, caused by the mother's use of the substance for a non-medical purpose. By statutory definition, a controlled substance refers to any of the following substances or their derivatives: opium, cocaine, heroin, phencyclidine (PCP), methamphetamine, amphetamines, opiates, tetrahydrocannabinol (active in marijuana), or alcohol.

1. Prenatal use is evidenced by withdrawal symptoms in an infant at birth, or by results of toxicology test performed on the mother at delivery or the child at birth; or by medical effects or developmental delays during an infant's first year of life that indicate prenatal exposure to a controlled substance or the presence of Fetal Alcohol Spectrum Disorder. [M.S. 626.556, subd. 2 (f) (6)]
2. Mandated reporters shall also immediately report prenatal exposure to any controlled substances, or the habitual or excessive use of alcohol, if the person knows, or has reason to believe, that a woman is pregnant and has used a controlled substance for a non-medical purpose during the pregnancy. Non-mandated reporters may make a voluntary report. [M.S. 626.5561, subd. 1]
3. Exception to mandated reporter reporting of prenatal exposure to alcohol and marijuana – 2010 statute change: [M.S. 626.561, subd. 1]
  - Health care professionals and social service professionals are exempt from reporting a woman's use or consumption of marijuana or alcoholic beverages during pregnancy if the professional is providing the woman with prenatal care or other health care services.
  - Prenatal care means the comprehensive package of medical and psychological support provided throughout pregnancy.

**K. Chronic and Severe Use of Alcohol or a Controlled Substance by a Parent or Person Responsible for the Care of the Child that Adversely Affects the Child's Basic Needs and Safety [M.S. 626.556, subd. 2 (f) (8)]**

This means that each of the following criteria are met:<sup>9</sup>

- Chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the child's care
- The demonstration of adverse affects to the child's basic needs and safety.

**L. Notices from the Department of Corrections Regarding Placement of Predatory Offenders in Households with Children [M.S. 244.057, Department of Corrections' Obligation to Notify; M.S. 244.052, subd. 1 (5), Definition of Predatory Offender; and M.S. 243.166, subd. 1 (b), Registration Requirements]**

The Department of Corrections is required to notify local child welfare agencies before authorizing a person required to register as a predatory offender to live in a household where children are residing.

Local child welfare agencies may assess the situation to assure the safety of the child(ren) residing in the home.

**M. Investigating Reports Involving children Serviced by Unlicensed Personal Care Provider Organizations [M.S. 256B.0659, 656.556, subd. 3c] Bulletin #10-68-11, August 3, 2010.**

The local county welfare agency is responsible for investigating reports involving children served by an unlicensed personal care provider. The child protection intake screener's task is to determine if the provider organization is licensed or not. An unlicensed personal care assistance program is considered to be a facility and a facility investigation would be the correct response to an accepted report. A copy of the investigative findings related to the personal care provider organization must be forwarded to the Minnesota Department of Human Services, Provider Enrollment Unit at:

Minnesota Department of Human Services  
Provider Enrollment  
PO Box 64987  
St. Paul, MN 55164-0987  
Telephone: (651) 431-2701

The following links may be used to determine if a personal care provider organization is licensed:

- <http://mhcpproviderdirectory.dhs.state.mn.us/>

- <http://www.health.state.mn.us/divs/fpc/directory/providerselect.cfm>

Generally, a program funded only by Medical Assistance would most likely be unlicensed. A program that received funding from other sources, such as private insurance, Medicare, Medical Assistance, or other funding sources is required to be licensed.

Reports involving licensed facilities should be referred to the Minnesota Department of Health. The intake number for the Department of Health is (651) 215-8702, or (800) 369-7994.

The following individuals or organizations are exempt from requirements to obtain a home care provider license and reports meeting the statutory threshold for maltreatment should be screened in:

- A personal care assistant who provides services to only one individual and received Medical Assistance payments
- A person or organization that provides, offers, or arranges for personal care assistant services and temporarily receives Medical Assistance payments until licensed status is established.

#### **N. MALTREATMENT IN A FACILITY**

All reports of alleged maltreatment in a family day care, a child foster care home, or either of these facilities in which a license is required by the Department of Human Services will be screened by the Child Protection Screening Team. If the report meets the child maltreatment screening criteria, a child protection assessment will be completed in accordance with Minn. Stat. § 626.556, subd. 10.

Maltreatment assessments will be completed if the report alleges that a child in the care of the facility is neglected, physically abused, or sexually abused by an individual in that facility. If the report does not meet the screening criteria, the report is forwarded to the Stearns County Licensing Unit to review as a licensing violation and/or complaint.

[www.dhs.state.mn.us](http://www.dhs.state.mn.us)

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<sup>1</sup> Three National Incidence Studies of Child Abuse and Neglect (NIS) conducted in 1980, 1986 and 1993, found no significant or marginal race differences in the incidence of maltreatment. (An Executive Summary of the NIS III can be found at [www.childwelfare.gov/information\\_gateway.org](http://www.childwelfare.gov/information_gateway.org).) Other research also indicates that the average African American child is not at any greater risk of abuse or neglect than the average Caucasian child (Sedlak & Schultz, 2001; Ards, et. al., 1999). This research is referenced on the Child Welfare League of America, Juvenile Justice page.

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[[www.childwelfareleagueofamerica.gov](http://www.childwelfareleagueofamerica.gov)] Disproportionate Minority Representation, a Statement about Children of Color in the Child Welfare System: overview, vision and proposed action steps.

<sup>2</sup> A physical injury of a child, other than by accidental means, includes, but is not limited to: bruises, scratches, lacerations, abrasions, swelling, burns, as well as more serious injuries causing extensive tissue damage. The definition of physical injury also includes internal injuries diagnosed by a physician.

<sup>3</sup> The definition of mental injury is provided in M.S. 626.556, subd. 2 (m) and on page 11 of this guide.

<sup>4</sup> The definition of threatened injury is provided in M.S. 626.556, subd. 2 (n) and on page 10 of this guide.

<sup>5</sup> Actions which meet the standard of being done in anger or without regard for the safety of the child do not require an inflicted injury to meet the definition of physical abuse or threatened injury. This would include, but not limited to, actions such as throwing a child, striking a child with a closed fist, shaking a child under age 3, striking a child under age 1 on the face or head, and unreasonable physical confinement. [M.S. 626.556, sub. 2, (g)]

<sup>6</sup> Palpably unfit refers to a court finding that results in the termination of parental rights based on parental factors so extreme and enduring in nature that the parent(s) are deemed to be unable to care for the child for the foreseeable future. A Termination of Parental Rights permanently severs the parents' legal rights and responsibilities to the child.

<sup>7</sup> For recommended protocol when intervening in situations of domestic violence, refer to the "Guidelines for Responding to Child Maltreatment and Domestic Violence", DHS 3490, [www.dhs.state.mn.us](http://www.dhs.state.mn.us).

<sup>8</sup> This information is taken from the book *The Psychologically Battered Child* by Gabarino, Buttman and Seeley, published by Josey-Bass, San Francisco, 1986. It is found in the Guidelines for a Model System of Protective Services for Abused and Neglected Children and Their Families, published by the National Association of Public Child Welfare Administrators, 1999. It is also found in the Risk Assessment Project Manual of the State of Utah, published in 1987. It is also consistent with other sources in literature.

<sup>9</sup> For the purpose of this statute, the expanded schedule of controlled substances provided in M.S. 152.02 is applied. This is an extensive listing of all controlled substances.

## Helpful links:

- Minnesota court conviction history (search by last name, first name, or soundex). Provides full name, birth date, and conviction history- <http://www.mncourts.gov/default.aspx?page=1927#Required>
- Predatory Offender Registry – <https://por.state.mn.us/OffenderSearch.aspx>
- M.S. 243.166 – Statute with definition of who is required to register as a predatory offender – <https://www.revisor.leg.state.mn.us/bin/getpub.php?type=s&num=243.166&year=2007>