

Protections for Reporter & Penalties for Not Reporting

You might be wondering if you could experience any problems as a result of reporting suspected maltreatment. Well, the law has anticipated these concerns. Let's take a look at some questions you might have.

Will the alleged maltreater find out that I reported?

Child Protective Services records are confidential. Information from those records may only be disclosed to certain persons or agencies under specific circumstances. Even when those records are disclosed to alleged maltreaters, parents, a child's foster parent or physical custodian, however, information that would identify the reporter must, by law, be kept confidential. There is an exception: If the case you reported goes to court and you have direct information important to the proceedings, you may be subpoenaed and your identity may become known.

Reports made directly to law enforcement agencies may be treated confidentially to some degree, but as a practical matter do not have the same guarantees of confidentiality. However, it is still important to call the law enforcement agency if you believe the child is in immediate danger.

TIP: It is not unusual for alleged maltreaters to guess who made the report. Some might try to get you to confirm their suspicions. You might want to think ahead of time how you would want to handle a situation like this.

What if my employer does not want me to report? Can I be fired or disciplined for making a report?

Although generally organizations are supportive of their staff reporting as required, even if the alleged maltreatment occurred within the reporter's place of employment by another employee, the law anticipates the possibility of attempts to dissuade a report. Both the law and the Executive Order clearly state:

“No person making a report under this subsection in good faith may be discharged from employment, disciplined or otherwise discriminated against in regard to employment, or threatened with any such treatment for so doing.”

Can I be sued for reporting, particularly if CPS determines that abuse or neglect did not occur?

Any person making a report in good faith has immunity from civil and criminal liability. By law, the good faith of the reporter is presumed for any civil or criminal proceeding that might result. Remember, you are not expected to know for sure that abuse or neglect occurred or that the child is in danger before you report. Your role is to identify and report children who you *suspect* of being maltreated. Reporting in good faith means that you do exactly that.

Are there consequences for not reporting?

Yes, there can be. It depends on whether you are mandated to report under the state statute (s. 48.981) or the Executive Order #54.

Persons required to report under s. 48.981 of the Wisconsin statutes

If you fail to report when you suspect child maltreatment, the law states that you may be fined up to \$1,000 or imprisoned for up to 6 months or both. It is also possible that your professional license or certification could be affected.

Persons required to report under the Governor's Executive Order #54

EO#54 does not contain any penalties. However, if you fail to report and the child is subjected to additional harm, there could be a basis for a civil negligence action. Also, failure to report a crime or to provide assistance where a crime is being committed and the victim is exposed to bodily harm is a criminal misdemeanor. That would include witnessing the occurrence of physical abuse, sexual abuse or neglect, which are all crimes, and failing to report or provide help.