

## Overview of the **Maltreatment of Minors Act**

The Minnesota Maltreatment of Minors Act establishes a system for reporting possible child abuse and neglect to government agencies that provide protective services for the child or conduct criminal investigations. The act also governs agency responses to reports and access to information generated under the act. Some of the system's features are determined by federal requirements that the state must satisfy in order to qualify for federal child abuse prevention and treatment grants. This information brief provides an overview of the Maltreatment of Minors Act, [Minnesota Statutes, section 626.556](#), and related law and rules, with changes effective through the 2006 legislative session.

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## The Reporter

### Who is permitted to report child abuse or neglect?

Anyone who knows, has reason to believe, or suspects that a child is being, or has been, neglected or physically or sexually abused. [Minn. Stat. § 626.556](#), subd. 3.

### Who is required to report child abuse or neglect?

An individual who knows or has reason to believe a child is being or has within the past three years been neglected or abused, and who is one of the following:

- (1) a member of the clergy who receives the information while engaged in ministerial duties, excluding information exempt under the confessional privilege
- (2) a professional or the professional's delegate who is engaged in
  - ▶ the healing arts
  - ▶ social services, including employee assistance counseling, guardian ad litem, and parenting time expeditor
  - ▶ hospital administration
  - ▶ psychological or psychiatric treatment
  - ▶ child care
  - ▶ education
  - ▶ law enforcement
  - ▶ correctional supervision, probation, and correctional services

[Minn. Stat. § 626.556](#), subd. 3.

A parent, guardian, or caretaker who knows or reasonably should know a child's health is in serious danger must report medical neglect. These individuals are subject to criminal penalties for failing to report if the child suffers substantial or great bodily harm or dies for lack of medical care. The criminal law that permits reliance on spiritual means or prayer for health care does not eliminate this reporting duty. [Minn. Stat. § 626.556](#), subd. 6.

### What are an employer's obligations to an employee who reports neglect or abuse?

The employer may not retaliate against an employee who is required to report and does so in good faith. Examples of presumed retaliation are provided in the act. The employee may recover actual damages and an additional penalty up to \$10,000. [Minn. Stat. § 626.556](#), subd. 4a.

## What is the penalty for failing to make a required report?

Failing to make a required report is a misdemeanor exclusively prosecuted by the county attorney rather than the city attorney, who usually prosecutes misdemeanors. [Minn. Stat. §§ 626.556](#), subd. 6; [388.051](#), subd. 2, para. (c).

## What are the consequences of making a false report?

An individual who makes a false report in good faith is immune from civil or criminal liability. [Minn. Stat. § 626.556](#), subd. 4. An individual who knowingly or recklessly makes a false report is liable in a civil suit for actual and punitive damages, costs, and reasonable attorney fees. [Minn. Stat. § 626.556](#), subd. 5.

## Reportable Abuse and Neglect

### Whose abuse or neglect is reportable under the act?

***Person Responsible for the Child's Care.*** A “person responsible for the child’s care” includes the following:

- ▶ parent
- ▶ guardian
- ▶ teacher
- ▶ school administrator
- ▶ school employee or agent
- ▶ day care provider
- ▶ paid or unpaid babysitter
- ▶ counselor
- ▶ coach
- ▶ other custodian with care responsibilities

[Minn. Stat. § 626.556](#), subd. 2, para. (e).

***Person in a Position of Authority.*** A “person in a position of authority” is a parent or someone acting in a parent’s place who has responsibility for the health, welfare, or supervision of a child for any period of time, however brief. [Minn. Stat. § 609.341](#), subd. 10.

“Persons in a position of authority” are covered by the act only when they commit sexual abuse. [Minn. Stat. § 626.556](#), subd. 2, para. (d).

***Person with a Significant Relationship to the Child.*** A person who has a significant relationship to the child is someone who has that relationship because of being a relative or

stepparent, or because of intermittently or regularly residing in the child's home. [Minn. Stat. § 609.341](#), subd. 15.

This group of individuals is covered by the act if they commit sexual abuse. [Minn. Stat. § 626.556](#), subd. 2, para. (d).

## What is “abuse” under the act?

**Physical Abuse.** Physical abuse or threatened physical abuse includes the following:

- ▶ physical injury, mental injury,<sup>1</sup> or threatened injury<sup>2</sup> inflicted other than by accident
- ▶ physical or mental injury not reasonably explained by the child's history of injuries
- ▶ aversive or deprivation procedures (e.g., electric shock) not authorized by Department of Human Services rules
- ▶ regulated interventions (e.g., time out) not authorized by Department of Education rules

Excluded from this definition is reasonable and moderate discipline by a parent or guardian or use of reasonable force by a teacher, principal, or school employee.<sup>3</sup> [Minn. Stat. §626.556](#), subd. 2, para. (g).

**Sexual Abuse.** Sexual abuse or threatened sexual abuse includes the following:

- ▶ soliciting a child to practice prostitution
- ▶ criminal sexual conduct
- ▶ receiving profit derived from prostitution by a child
- ▶ hiring or agreeing to hire a child as a prostitute
- ▶ using a minor in a sexual performance or pornographic work

[Minn. Stat. §626.556](#), subd. 2, para. (d).

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<sup>1</sup> “Mental injury” means injury to a child's psychological capacity or emotional stability, evidenced by observable or substantial impairment in the child's ability to function within normal performance and behavior ranges for the child's culture. [Minn. Stat. § 626.556](#), subd. 2, para. (m).

<sup>2</sup> “Threatened injury” means a statement, overt act, condition, or status that represents a substantial risk of abuse or injury of a child. This statute lists four examples of threatened injury. [Minn. Stat. § 626.556](#), subd. 2, para. (n).

<sup>3</sup> The statute lists ten kinds of conduct that are not reasonable discipline.

## What is “neglect” under the act?

Neglect includes the following:

- ▶ failure to supply necessary food, clothing, shelter, or medical care when reasonably able to do so
- ▶ failure to protect a child from serious danger to physical or mental health when reasonably able to do so, including a growth delay, referred to as failure to thrive
- ▶ failure to provide necessary supervision or appropriate child care
- ▶ chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the child’s care that adversely affects the child’s basic needs and safety
- ▶ emotional harm demonstrated by a substantial and observable effect on the child
- ▶ withholding medically indicated treatment from a disabled infant with a life-threatening condition
- ▶ prenatal exposure to specified controlled substances<sup>4</sup>
- ▶ failure to ensure that a child is educated in accordance with state law

[Minn. Stat. §626.556](#), subd. 2, para. (f).

## What else must be reported under the act?

A mandated reporter must report to law enforcement kidnapping or actions that deprive a parent of custodial or parenting time rights. This report does not trigger a local social services agency assessment. [Minn. Stat. § 626.556](#), subd. 3a.

## Creation of Reports

### Where can a child abuse report be made?

In most cases a person may report to either the police, the county sheriff, the local social services agency, or the agency responsible for assessing the report. [Minn. Stat. § 626.556](#), subd. 3, para. (a).

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<sup>4</sup> Assessment, chemical testing, and services to women using prohibited drugs is governed by [Minnesota Statutes, sections 626.5561, 626.5562, and 626.5563](#).

### Exceptions:

- ▶ If a person required to report believes a child died because of neglect or abuse, the report must be made to the medical examiner or coroner. [Minn. Stat. § 626.556](#), subd. 9.
- ▶ If abuse or neglect occurs in a licensed facility (day care, foster care, etc.), a person required to report must report to the agency that licenses the facility. [Minn. Stat. § 626.556](#), subd. 3, para. (c).
- ▶ If abuse or neglect occurs in a school, a board or licensing entity must provide information about the circumstances of the alleged maltreatment to the Department of Education. [Minn. Stat. § 626.556](#), subd. 3, para. (c).

### How is a report made?

The initial report may be oral. If the reporter is an individual required to report under the act, an oral report must be followed by a written report within 72 hours, exclusive of weekends and holidays. [Minn. Stat. § 626.556](#), subd. 7.

### What must be included in the report?

The following information must be included in the report:

- ▶ the child's identity
- ▶ the person believed responsible for the abuse or neglect, if known
- ▶ the nature and extent of abuse or neglect
- ▶ the reporter's name and address

[Minn. Stat. § 625.556](#), subd. 7.

## Investigation or Assessment of Reports

### How are reports of abuse or neglect in the home handled?

When the local social service agency receives a report, the agency determines whether to conduct a family assessment or an investigation. If the report alleges substantial child endangerment, the agency will conduct an investigation. The agency may conduct a family assessment when a report does not allege substantial endangerment. [Minn. Stat. § 626.556](#), subd. 10.

In conducting a family assessment, the local social service agency will determine whether the family needs services. In an investigation, the local social service agency will determine (1) whether there was maltreatment, and (2) whether protective services are needed. [Minn. Stat. § 626.556](#), subd. 10e. If an incident results in the death of a child, the local social service agency may rely on the law enforcement investigation to determine whether there was maltreatment. [Minn. Stat. § 626.556](#), subd. 10, para. (a).

“Maltreatment” means (1) physical abuse, (2) neglect, (3) sexual abuse, (4) mental injury, or (5) maltreatment of a child in a facility. [Minn. Stat. § 626.556](#), subd. 10e, para. (f). Maltreatment does not include reliance on spiritual means or prayer for treatment, but if lack of medical care may cause serious danger to a child’s health, the agency may ensure that the child receives necessary medical services. [Minn. Stat. § 626.556](#), subd. 10e, para. (h).

A determination that protective services are needed should result when a child protection worker concludes that (1) there is significant risk of maltreatment, and (2) persons responsible for the child’s care are not likely to protect the child from maltreatment. [Minn. Stat. § 626.556](#), subd. 10e, para. (g). When necessary, the agency shall seek authority to remove the child from the home. [Minn. Stat. § 626.556](#), subd. 10, para. (a).

In cases alleging criminal sexual abuse, physical abuse, or criminal child neglect or endangerment, the local social services agency and local law enforcement must coordinate efforts to avoid duplicate fact-finding and multiple interviews. [Minn. Stat. § 626.556](#), subd. 10, para. (a). The social service or law enforcement agency may interview the alleged victim and other children (1) without parental consent, and (2) outside the parent or alleged offender’s presence. For family assessments, it is the preferred practice to request parental permission to interview the child unless this would compromise the safety assessment. [Minn. Stat. § 626.556](#), subd. 10, para. (c).

## **How are reports of abuse or neglect in specified out-of-home settings handled?**

The local social services agency must conduct these investigations in child foster care settings, family child care, legally unlicensed child care, and certain juvenile correctional facilities. [Minn. Stat. § 626.556](#), subd. 3c, cl. (1). The Department of Human Services investigates facilities licensed under [chapters 245A](#) and [245B](#), other than child foster care and family child care. [Minn. Stat. § 626.556](#), subd. 3c, cl. (2). The Department of Health investigates facilities it licenses, as well as unlicensed home health care settings. [Minn. Stat. § 626.556](#), subd. 3c, cl. (3). The Department of Education investigates maltreatment in schools. [Minn. Stat. § 626.556](#), subd. 3b. These investigations must conclude with the same determinations regarding maltreatment or need for protective services that are required for abuse or neglect in the home.

## **How are reports of abuse or neglect in other settings handled?**

In other settings, law enforcement will investigate, and the local social services agency will offer child protective services if appropriate. [Minn. Stat. § 626.556](#), subd. 10a.

## What are the requirements for assessments and investigations?

The act provides various protocols for assessments and investigations. It lists several relevant kinds of information the local social services agency or agency responsible for assessing or investigating the report should collect, and authorizes the agency to collect additional information. [Minn. Stat. § 626.556](#), subd. 10, para. (h).

The agency is required to interview the alleged perpetrator and victim. For investigations only audio recordings of interviews are to be made whenever possible, except that in sexual abuse cases videotaping is required. [Minn. Stat. § 626.556](#), subd. 10, paras. (i) and (j).

The act authorizes the agency to make an early determination of no maltreatment and close the case if there is no basis for further information. [Minn. Stat. § 626.556](#), subd. 10, para. (h).

Determinations whether there is maltreatment must be based on a preponderance of the evidence. The need for protective services must be based on the child protection worker's conclusion that the child is at significant risk of maltreatment if protective intervention is not provided and that the child's caregivers have not taken, or are not likely to take, actions to protect the child. [Minn. Stat. 626.556](#), subd. 10e.

A person conducting an assessment should not have:

- (1) a financial interest in a child abuse or neglect treatment provider, or
- (2) a personal or family relationship with anyone under investigation.

If an independent assessor is not available, the services of someone who does not satisfy these requirements may be used. [Minn. Stat. § 626.556](#), subd. 14.

## Is there an appeal process?

There is no right to appeal in family assessment cases because there is no determination of maltreatment. An interested person acting on behalf of the child<sup>5</sup> may ask for reconsideration of an investigating agency's decision in an investigation. An individual or facility determined to have maltreated a child also may ask for reconsideration. A request must be submitted in writing within 15 days after receipt of the final determination regarding maltreatment. [Minn. Stat. § 626.556](#), subd. 10i, para. (a).

If the request is denied or not acted on within 15 days after it is received, the person making the request may submit a written request for a hearing to the Department of Human Services. [Minn. Stat. § 626.556](#), subd. 10i, para. (b). The department must hold a hearing and reach a decision within 90 days after a hearing is requested, with an extension for as many days as either party asks to have the hearing postponed. [Minn. Stat. § 626.556](#), subd. 10i, para. (d).

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<sup>5</sup> An "interested person acting on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult sibling, stepbrother, or stepsister; or adult aunt or uncle. The perpetrator of maltreatment cannot be an "interested person" under the act. [Minn. Stat. § 626.556](#), subd. 10i, para. (g).



For reports involving maltreatment of a child in a facility, an interested person acting on behalf of a child may request that the child maltreatment review panel review the investigating agency's maltreatment determination. The review panel consists of the commissioners of health, human services, education, and corrections, and the ombudsman for mental health and developmental disabilities.

Within 30 days of the review, the panel must notify the investigating agency and interested persons of whether: (1) the panel agrees with the agency's determination, or (2) the agency must reconsider its determination. If the panel determines that the investigating agency must reconsider its determination, the agency must reconsider and report back to the panel with its reconsidered determination within 30 days. [Minn. Stat. §§ 256.022 and 626.556](#), subd. 10i, para. (b).

If the investigating agency changes its determination after reconsideration or review, it must notify the parties who got notice of the original determination. [Minn. Stat. § 626.556](#), subd. 10i, para. (c).

### **What is the potential legal liability of those involved in child abuse cases?**

If action is taken in good faith, there is immunity from civil or criminal liability for the following:

- ▶ a voluntary or mandated reporter
- ▶ anyone who participates in a case assessment
- ▶ a school or licensed facility and its employees when permitting interviews and helping with an assessment or investigation
- ▶ a person performing duties under the act or the supervisor of such a person

[Minn. Stat. § 626.556](#), subd. 4.

### **What is the role of the multidisciplinary child protection team?**

A county may form such a team, consisting of the director of the local social services agency or designee, county attorney or designee, county sheriff or designee, representatives of health, education, and mental health, or similar agencies, and parent groups. A committee of this team may provide case consultation to the local social services agency. Case consultation is a review process resulting in recommendations about services for an identified child and family. [Minn. Stat. § 626.558](#).

## Access to Reports

### What law controls access to child abuse reports?

The classification of law enforcement records on child abuse, other than the report itself, is found in the Data Practices Act.<sup>6</sup> The Maltreatment of Minors Act determines the classification of child abuse records and access to those records when held by the local social services agency or the agency responsible for assessing or investigating a maltreatment report. In all cases, reports are to be collected and maintained according to standards in the Data Practices Act (accuracy, security of files, etc.).

### How are child abuse reports shared among government agencies?

**Police or Sheriff.** If filed with the police or sheriff, a copy of the report must be forwarded to the local social services agency within 24 hours and maintained by both agencies as private data (available to the alleged abuser but not to anyone else).<sup>7</sup> Law enforcement also must notify the local social services agency orally within 24 hours. [Minn. Stat. § 626.556](#), subd. 3, paras. (a) and (e), subd. 7, and subd. 11, para. (a).

**Local Social Service Agency.** If filed with the local social services agency, a copy of the report must be forwarded to the police or sheriff within 24 hours and maintained by both agencies as private data. The local social services agency must also notify law enforcement orally within 24 hours. [Minn. Stat. § 626.556](#), subd. 3, paras. (a) and (e), and subd. 7. If a report involves a child who is a mental health or developmental disabilities client, the agency must also immediately inform the ombudsman for mental health and developmental disabilities. [Minn. Stat. § 626.556](#), subd. 10, para. (b). For purposes of compiling statistics, the local agency must send the Department of Human Services information on every report of maltreatment it receives. [Minn. Rules, part 9560.0230](#), subp. 7.

Notifications required of law enforcement and social services agencies must be given by a designated law enforcement or local social services agency employee. Failure to provide the notification will subject that employee to disciplinary action under the applicable personnel policy or collective bargaining agreement. [Minn. Stat. § 626.556](#), subd. 6a.

Social service and law enforcement agencies may share records with a local social services agency in another county or state that needs the information to do a child protection assessment. [Minn. Stat. § 626.556](#), subds. 10g and 10k.

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<sup>6</sup> [Minn. Stat. § 13.82](#), subds. 7, 8, and 9.

<sup>7</sup> The federal Child Abuse Prevention and Treatment Act provides that, in order to qualify for federal grants, a state must maintain the confidentiality of child abuse records, but may permit sharing by involved government agencies. 42. U.S.C. § 5106a(b).

The local social services agency may share report records with the case consultation committee of the multidisciplinary team, and committee members may share information with each other to assist in case consultation. [Minn. Stat. § 626.558](#), subd. 3.

The local social services agency, investigating agency, and the police or sheriff must make their report records available to the petitioning authority in a court proceeding for a child in need of protective services or a parental rights termination action or to the prosecuting authority, including the medical examiner, in a criminal action. [Minn. Stat. § 626.556](#), subd. 11, para. (a).

Social service agencies or investigating agencies may share otherwise private data with a mandated reporter having ongoing responsibility for the health, education, or welfare of a child that is relevant to the child's care. [Minn. Stat. § 626.556](#), subd. 10j.

**Medical Examiner.** If a report is filed with the medical examiner because a death has occurred, the medical examiner must investigate and report the results to the police or sheriff and the local social services agency. If a deceased child was receiving residential treatment from a chemical dependency, mental health, or developmental disabilities agency, the coroner must notify the state ombudsman for mental health and developmental disabilities. [Minn. Stat. § 626.556](#), subd. 9.

**Child Fatality.** In a case where there was a child fatality or near fatality and criminal charges are brought, otherwise private information must be disclosed to the public upon request. [Minn. Stat. § 626.556](#), subd. 11d.

**Licensed Facilities and Schools.** The Commissioner of Human Services, the Commissioner of Education, local social service agencies, the police or sheriff, and the ombudsman for mental health and developmental disabilities may examine and copy a licensed facility's records when investigating possible abuse in the facility. When doing so, investigators may tell the facility that they are investigating a report of abuse or neglect, may disclose the alleged abuser's name, and may give the facility a copy of the report and the investigative findings. [Minn. Stat. § 626.556](#), subd. 10, para. (g).

A board or licensing entity that receives a report of alleged maltreatment in a school must share information about the circumstances of the alleged maltreatment with the Commissioner of Education. [Minn. Stat. § 626.556](#), subd. 3, para. (c).

**Confidentiality.** Personnel of governmental agencies, other than law enforcement or the local social service agency, such as the one reporting the abuse, that keeps a written copy of a report of abuse or neglect must treat the report as confidential (not available to anyone, including the alleged abuser). [Minn. Stat. § 626.556](#), subd. 7.

## **What information besides access to the report itself is shared by government agencies dealing with a child abuse report?**

**Interview of Victim.** Law enforcement, local social services agency, or investigating agency personnel may interview an alleged victim at school if they notify the school in writing that the

purpose of the interview is to investigate a child abuse report. Not later than the close of the investigation, they also must notify the child's parent or guardian that the interview has occurred, unless a juvenile court order is obtained to allow withholding this notice. [Minn. Stat. § 626.556](#), subd. 10, paras. (c) and (d).

**Reporter.** The agency receiving a child abuse report must give the person who made the report, on request, a concise summary of the disposition of the report, unless that would be harmful to the child.<sup>8</sup> A mandated reporter must be given a summary automatically, without first making a request. [Minn. Stat. § 626.556](#), subd. 3, para. (d).

**Actions in Homes.** If a report involves actions in the home, the local social services agency must notify the parent or guardian within ten working days after the assessment ends of (a) the determinations made, and (b) the length of time the records will be retained before destruction. [Minn. Stat. § 626.556](#), subd. 10f.

**Licensed Facilities.** When a child abuse report involves a licensed facility, the parents must be notified before children are interviewed, unless reasonable attempts to reach parents of a child in out-of-home placement fail. [Minn. Stat. § 626.556](#), subd. 10b, para. (b). When the assessment concludes, the parents, facility directors, and person alleged to be maltreating the child must be notified of the determination and a summary of reasons for it. The notice must certify that statutory information collection procedures were followed and that the data subject has a right to obtain other information on herself or himself. [Minn. Stat. § 626.556](#), subs. 10d and 10f.

When a child abuse report involves personnel in a licensed facility, the local social services agency or investigating agency (a) must tell the alleged victim's parent, guardian, or legal custodian, and (b) if the agency has reason to believe abuse or neglect has occurred, may tell other children's parents, guardians, or legal custodians the following information:

- ▶ the name of the facility
- ▶ that a report was filed involving the facility
- ▶ the kind of abuse or neglect alleged
- ▶ that an investigation is occurring
- ▶ any corrective measures being taken
- ▶ that a written memorandum will be provided when the investigation ends

[Minn. Stat. § 626.556](#), subd. 10d, paras. (a) and (b).

Within ten working days after a licensed facility investigation is completed, the local social service agency or investigating agency must give notice of the determinations made to the alleged abuser, facility director, and parent or guardian. [Minn. Stat. § 626.556](#), subd. 10f. The notice must also disclose how long records will be retained before destruction.

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<sup>8</sup> This is permitted by the regulations accompanying the federal law. 45 C.F.R. § 1340.14.

The written memorandum at the close of the investigation must be provided:

- ▶ to the alleged victim's parent, guardian, or legal custodian;
- ▶ to other parents, guardians, or legal custodians who were previously notified of the investigation;
- ▶ to all parents, guardians, or legal custodians of children in a facility who had contact with the individual responsible for the maltreatment, if maltreatment is determined to exist; and
- ▶ to the parents, guardians, or legal custodians of each child who received services in the population of the facility where the maltreatment occurred, if the facility is the responsible party for maltreatment.

The memorandum must include the following information:

- ▶ name of the facility investigated
- ▶ nature of the alleged abuse or neglect
- ▶ investigator's name
- ▶ summary of findings
- ▶ whether maltreatment was determined to exist
- ▶ protective or corrective measures being taken

The memorandum must protect the identities of the reporter, alleged victim, perpetrator, and those interviewed during the investigation, to the extent possible.

If the maltreatment is within a school, the Commissioner of Education may provide notification to the parents, guardians, or legal custodians of students alleged to have been maltreated or who witnessed the alleged maltreatment.

[Minn. Stat. § 626.556](#), subd. 10d, para. (c).

**Schools.** A school must release all requested data relevant to a maltreatment report to the Commissioner of Education. If the commissioner determines that maltreatment occurred involving a person who works in the school, the commissioner must report to the employer, school board, and any appropriate licensing entity the determination and what corrective or protective action was taken by the school. In all other cases, the commissioner must inform the school board or employer that a report was received, the subject and date of the report, the type of maltreatment alleged, the fact that maltreatment was not determined, and a summary of the reasons for the determination. [Minn Stat. § 626.556](#), subsd. 10e and 11.

**Investigative Data.** A local social services agency may release data on an active assessment or investigation to a court services agency if (a) the court services agency has an active case involving the subject of the data and (b) the data are necessary to effectively process the case. [Minn. Stat. § 626.556](#), subd. 10h.

***Child Mortality Review Panel.*** Police investigative data and data from social service agencies that worked with the family of a child believed to have died from maltreatment must be provided upon request to the Child Mortality Review Panel created pursuant to [Minnesota Statutes, section 256.01](#), subdivision 12.

***Child Maltreatment Review Panel.*** The investigating agency must share nonpublic data with the child maltreatment review panel if the data are pertinent and necessary for a review requested under [Minnesota Statutes, section 256.022](#). [Minn. Stat. § 626.556](#), subd. 11.

***Citizen Review Panel.*** Police investigative data and data from social service agencies that worked with the family of a child must be provided upon request to a citizen review panel created pursuant to [Minnesota Statutes, section 256.01](#), subdivision 15.

***Appeal.*** An individual or facility found to have maltreated a child may file an administrative appeal. An individual cannot request an appeal in a family assessment since no determination of maltreatment is made. [Minn. Stat. § 626.556](#), subd. 10i.

## **Who may examine the child abuse report record during the assessment or investigation?**

The alleged abuser and the parent or custodian of the child can see the case records created by the local social services agency, except the reporter's name must not be disclosed. They cannot see records held by a law enforcement agency or given to the local social services agency by law enforcement. Anyone performing a child abuse assessment or investigation who intentionally violates this restriction is guilty of a misdemeanor.

The act provides that the record must be kept private or confidential, so with the exceptions for government agency sharing and access by the subjects of the report, no one but the subjects of the report can see the record.

## **What are the access rules when an investigation becomes inactive?**

Law enforcement records identifying the victim remain private (available only to the victim). Those identifying the reporter are confidential (no one may see them), except as provided below.

Local social services agency records, whether or not received from law enforcement, become private (available to the subjects of the record).

## **Destruction of Report Records**

### **How long must child abuse reports and records be kept?**

Records held by local social service agencies, investigating agencies, and schools will be retained on the following schedule.

- (1) For family assessment cases and cases in which there is no determination of maltreatment or need for child protective services, records must be kept for four years. These records may only be used in future risk and safety assessments and may not be used for other purposes.
- (2) If there is a determination of maltreatment or need for child protective services, reports must be maintained for at least ten years after the final entry in the record.

[Minn. Stat. § 626.556](#), subd. 11c, paras. (a) and (b).

Records held by law enforcement agencies will be destroyed according to the same schedule each agency has adopted under state law for destruction of all other types of records.

Records regarding a report of maltreatment held by a school will be destroyed by the school when ordered to do so by the investigating agency. The agency must order the destruction of the records when other records regarding the report are scheduled to be destroyed. [Minn. Stat. § 626.556](#), subd. 11c, para. (c).

Records given to a court services agency by a local social services agency must be destroyed when the local social services agency directs, following the general timetable that applies to the local social services agency. [Minn. Stat. § 626.556](#), subd. 11c, para. (d).

### **May the alleged abuser learn the reporter's name after the investigation ends?**

Yes; (1) if the reporter consents, or (2) upon a written court finding that the report was false and there is evidence that it was made in bad faith. [Minn. Stat. § 626.556](#), subd. 11, para. (a).

*For more information about abuse laws, visit the criminal justice area of our web site, [www.house.mn/hrd/issinfo/crime.htm](http://www.house.mn/hrd/issinfo/crime.htm).*