

ST. LOUIS COUNTY SCREENING CRITERIA
FOR ALLEGED CHILD MALTREATMENT

June 4, 2003 DRAFT
Based on 2002 Minnesota Statutes

The following criteria are used to determine when to perform a child maltreatment assessment in accordance with MN. Stat. 626. 556, Subd. 10. If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, St. Louis County shall immediately conduct an assessment and offer protective social services. If the report alleges neglect, physical abuse, or sexual abuse by a person responsible for the child's care, but functioning outside the family unit in a setting other than a facility, St. Louis County shall immediately notify the appropriate law enforcement agency, as well as offer social services to the family. The child protection intake screener will make every attempt to secure first-hand information, as well as consider community standards and cultural differences before case assignment.

PHYSICAL ABUSE

- I. PHYSICAL ABUSE MEANS ANY PHYSICAL, MENTAL, OR THREATENED INJURY, INFLICTED BY A PERSON RESPONSIBLE FOR THE CHILD'S CARE ON A CHILD OTHER THAN BY ACCIDENTAL MEANS, OR ANY PHYSICAL OR MENTAL INJURY THAT CANNOT REASONABLY BE EXPLAINED BY THE CHILD'S HISTORY OF INJURIES, OR ANY AVERSIVE OR DEPRIVATION PROCEDURES, OR REGULATED INTERVENTIONS, THAT HAVE NOT BEEN AUTHORIZED UNDER SECTION 121A.67 or 245.825. MN. Stat. 626.556, Subd. 2(d)(k)(l).

An assessment shall be conducted when the following circumstances are alleged:
A Physical Abuse: A non-accidental act resulting in a visible injury or an injury diagnosed by a physician. An injury is defined as a visible mark or swelling which persists for a period or time. Examples include:

- Bruises, Cuts, Lacerations, Welts, Abrasions, Burns, Bite marks, Missing teeth, Broken bones, Patches of missing hair
- Physician's diagnosis of shaken baby syndrome
- Reports of physical punishment prohibited by the child's physical condition.
- Purposely giving a child poison, alcohol, or other harmful controlled substances, which were not prescribed by a practitioner, in order to control or punish the child, or other substances that substantially affect the child's behavior, motor coordination, or judgement or that results in sickness or internal injury or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances.

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

includes exposing a child to a person responsible for the child's care (an individual functioning within the family unit) who has:

1. Subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm.

"Egregious harm" means the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care.

Examples are:

- 609.185 Murder in the first degree.
- 609.21 Criminal vehicular homicide and injury.
- 609.221 Assault in the first degree i.e. great bodily harm.
- 609.222 Assault in the second degree i.e. assault with a dangerous weapon.
- 609.223 Assault in the third degree i.e. substantial bodily harm, past pattern of child abuse, felony; victim under four.
- 609.02 Substantial bodily harm means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.
- 609.377 Malicious punishment of a child.
- 609.255 Unreasonable restraint of children.
- 609.378 Neglect or endangerment of a child including endangerment by firearm access.

Conduct towards a child that constitutes murder or voluntary manslaughter as defined by United States Code, title 18, section 1111(a) or 1112(a).

Conduct towards a child that constitutes aiding or abetting, attempting, conspiring, or soliciting to commit a murder or voluntary manslaughter that constitutes a violation of United States Code, title 18, section 1111(a) or 1112(a);

or

1. Been found to be palpably unfit under section 260C.301, paragraph (b), clause (4), or a similar law of another jurisdiction;
- 2.

Palpably unfit: a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that the parent's parental rights to one or more other children were involuntarily terminated or that the parent's custodial rights to another child have been involuntarily transferred to a relative.

Other examples of threatened injury include but are not limited to:

1. striking a child with a closed fist;
2. shaking a child under age three;

3. physical punishment of a young child involving shaking,
4. throwing, or hitting of the child's head or trunk;
5. unreasonable interference with a child's breathing;
6. threatening a child with a weapon, as defined in section 609.02, subdivision 6;
7. striking a child under age one on the face or head;
8. purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
9. unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; risk factors for restraint are length of time, area, frequency, and age of the child. or
10. placing a child in immediate risk; e.g., suspending a child out a window.

C Mental injury: an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function with a normal range of performance or behavior with due regard to the child's culture.

1. Examples include:

- a. Reports from a professional (clinician, teacher, day care provider, etc.) which document both mental injury to the child and acts or omissions of the parent that contributed to the development of the injury.
- b. Consistent or deliberate infliction of mental harm on a child by a person responsible for the child's care, that has an adverse effect on the child's physical, mental, or emotional development.

2. Examples are, but are not limited to: rejecting: adult refuses to acknowledge the child's worth and the legitimacy of the child's needs; isolating: adult cuts the child off from normal social experience, prevents the child from forming friendships; terrorizing: adult verbally assaults the child, creates a climate of fear, bullies and frightens the child; ignoring: adult deprives the child of essential stimulation and pensiveness, stifling emotional growth and intellectual development; corrupting: adult encourages the child to engage in destructive anti-social behaviors.

D. Aversive and deprivation procedures:

Procedures not authorized under section 245.825. These procedures may include: (a) the application of certain aversive and deprivation procedures in facilities except as authorized and monitored by the commissioner; (b) restricting the consumer=s normal access to nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, and necessary clothing; (c) use of cardiac shock (electro-shock therapy) without a court order.

SEXUAL ABUSE

I. SEXUAL ABUSE MEANS THE SUBJECTION OF A CHILD BY A PERSON RESPONSIBLE FOR THE CHILD'S CARE, BY A PERSON WHO HAS A SIGNIFICANT RELATIONSHIP TO THE CHILD, AS DEFINED IN SECTION 609.341, OR BY A PERSON IN A POSITION OF AUTHORITY, AS DEFINED IN SECTION 609.341, SUBDIVISION 10, TO ANY ACT WHICH CONSTITUTES A VIOLATION OF SECTION 609.342, 609.343, 609.344, 609.345, OR 609.3451. SEXUAL ABUSE ALSO INCLUDES ANY ACT WHICH INVOLVES A MINOR WHICH CONSTITUTES A VIOLATION OF PROSTITUTION OFFENSES UNDER SECTIONS 609.321 TO 609.324 OR 617.246. SEXUAL ABUSE INCLUDES THREATENED SEXUAL ABUSE. MN Stat. 626.556, Subd. 2(a).

ASection 609.341, Subd. 15. defines significant relationship as a situation in which the actor is:

1. The complainant's parent, step-parent, or guardian.
2. Any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, step-brother, step-sister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, and great-aunt.
3. An adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant's spouse.

B Section 609.341, Subd 10. defines position of authority. It 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 parents 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 purpose of Subd. 11 (Sexual contact), Aposition of authority@ includes a psychotherapist.

C Sections 609.342 - 609.345 contain elements of the criminal sexual conduct in the first, second, third, fourth, and fifth degree.

D Sections 609.321 - 609.324 refer to the definitions related to prostitution, inducement, promotion of prostitution, receiving profit derived from prostitution and other prohibited acts.

E Section 617.246 refers to the use of minors in sexual performance.

Assessment of sexual abuse shall be conducted when the report involves a person within the family unit or in a licensed day care or foster home who is responsible for the child's care. Assessments will also be conducted when any person with a significant relationship commits an act of criminal sexual conduct in the first through fourth degree. This would include minor siblings and other alleged juvenile offenders with a significant relationship to the child.

When the report involves a person in a position of authority who does not have a significant relationship with the child, law enforcement will be notified and the child's caretaker will be offered services.

The following conditions are examples of sexual abuse:

1. Any sexual penetration.
2. Intentional touching of the alleged victim's breasts, buttocks, inner thighs, groin or primary genital area over, under, or in the absence of clothing.
3. Touching of the alleged offender's breasts, buttocks, inner thighs, groin or primary genital area over, under, or in the absence of clothing by the alleged victim at the direction of alleged offender.
4. Touching of the alleged victim's breasts, buttocks, inner thighs, groin or primary genital area over, under, or in the absence of clothing by the alleged victim, or two or more alleged victims touching each other at the direction of an adult.
5. Children with unexplained injuries to their genitals.
6. Pre-adolescent children with sexually transmitted diseases.
7. Children involved in prostitution or sexual performance. This would include videotaping or photographing of children in a sexually explicit manner.

An assessment of threatened sexual abuse may be conducted in, but not limited to, the following alleged circumstances:

1. A child is intentionally exposed to adult sexual activity.
2. Sexually intrusive behaviors or invasions of privacy, such as masturbation in front of a child, asking a child to watch, or coercing the child to observe sexual activity.

NEGLECT

- I. FAILURE BY A PERSON RESPONSIBLE FOR A CHILD'S CARE TO SUPPLY A CHILD WITH THE NECESSARY FOOD, CLOTHING, SHELTER, EDUCATION, OR MEDICAL CARE WHEN REASONABLY ABLE TO DO SO. MN. Stat. 626.556.

An assessment shall be conducted in, but not limited to, the following alleged circumstances:

- A Failure to provide adequate food, shelter and/or clothing:

1. The condition of the home presents a health or safety hazard (e.g. moldy foods, feces, fire or environmental hazards, inadequate heat, sanitation, or sleeping arrangements).
2. Condition of clothing present health or safety hazard.
3. Reports of no food being provided or a child has a medical diagnosis of malnutrition.
4. Physician's diagnosis of Failure-to-Thrive due to parental deprivation, which is defined as inadequate caloric intake with non-organic cause.

B Failure to take steps to ensure that a child is educated in accordance with state law.

1. Statutory Expectations:
 - a. Every child between seven and sixteen years of age shall receive instruction. MN. Stat. 120A.22 , Subd. 5
 - b. Once a pupil under the age of seven is enrolled in kindergarten or a higher grade in a school, the pupil is subject to the compulsory attendance provisions. MN. Stat. 120A.22 , Subd. 6
 - c. Any student between sixteen and eighteen years old must have a signed, written election to withdraw from school. MN. Stat. 120A.22 , Subd. 8
 - d. A school is defined as a public or non-public school, church or religious organization or home-school. MN. Stat. 120.101, Subd. 4.
2. An assessment may be conducted when a child who is subject to the compulsory instruction requirements of section 120A.22 and is absent from instruction without valid excuse within a single school year for:
 - a. Three days if the child is in elementary school; or
 - b. Three or more class periods on three days if the child is in middle school, junior high school, or high school. MN. Stat. 260A.02 Subd. 3
3. Reports received from the school must document:
 - a. Actual absences that are without lawful excuse.
 - b. Efforts to elicit parental cooperation and the response.
 - c. Special need, if appropriate.
 - d. Reports received from a non-school source must include:
 - i. Reasonable indication of school truancy.
 - ii. Reasonable indication of parental failure to take steps to ensure attendance.

C Failure to provide medical care:

1. Consistent refusal or failure to seek medical treatment for serious illness or injury, including mental health issues.

2. Inappropriate medication or lack of follow through on critical medical or mental health treatment as recommended by a professional.

II. FAILURE BY A PERSON RESPONSIBLE FOR THE CHILD'S CARE TO PROTECT A CHILD FROM ACTIONS OR CONDITIONS WHICH IMMINENTLY AND SERIOUSLY ENDANGER THE CHILD'S PHYSICAL OR MENTAL HEALTH WHEN REASONABLY ABLE TO DO SO.

MN. Stat. 626.556.

An assessment will be conducted in, but not limited to, the following alleged circumstances:

1. Lack of Supervision. Failure to provide supervision, child care arrangements, guidance, and/or protection appropriate for a child, which results in the children being in situations beyond their ability to cope, at risk of physical harm, or at risk of sexual abuse or other exploitation. Examples are:
 - a. The child is left alone or is held responsible for siblings or other children for extended periods of time and in circumstances beyond the child's chronological age, social maturity or judgement to handle safety. The decision to assess the reports of unsupervised children will be made in light of the following considerations, according to St. Louis County Social Services policy:
 - i. The maturity level of the children.
 - ii. The accessibility of the parent, guardian, caretaker, or responsible adult by phone or in person.
 - iii. The physical or mental health condition of the children.
 - iv. The behavioral history of the children.
 - v. Whether a young child is using a stove, iron, or appliance which poses a danger because of his/her age.
 - vi. Whether the parents have discussed an escape plan or held a fire drill with the children.
 - vii. Whether the residence has a smoke detector.
 - viii. Whether there are unusual hazards in the home.
 - ix. The children's reaction to being left alone
 - x. The ages of the children being cared for.
 - xi. Whether the child has completed a Babysitting Clinic
 - xii. The reliability of the person that the parent has chosen to provide supervision.
 - b. In considering whether to assess for neglect the following age guidelines have been established:
 - i. Children age 5 and younger should not be left alone for any period of time;
 - ii. Children ages 6-7 should not be left alone for fifteen or more minutes;
 - iii. Children ages 8-9 should not be left alone for more than one - two hours;
 - iv. Children ages 10-13, should not be left alone for over eight hours;

- v. Any child should not be left alone for over twenty-four hours, if parents whereabouts are unknown to children;
 - vi. Children ages 11-14 may baby-sit with the expectation that an adult will return later in the same day/night;
 - vii. Children ages 15 and older may baby-sit for more than twenty-four hours.
- c. Improper selection of care givers; i.e. unreliable babysitter, etc.
 - d. The caretaker displays erratic or impaired behavior, engages in substance abuse, suffers from severe emotional disturbances, or is documented by a professional as so developmentally delayed, and whose behaviors alone or in combination, are such duration and intensity that the bare minimum of child-caring tasks and human responses necessary for physical and emotional nurturance cannot be performed.
 - e. Chronic and severe use of alcohol or controlled substances by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety.
 - f. Care giver is driving under the influence of alcohol and/or other drugs and the child is in the vehicle.
 - g. Child is present with the care giver during the possession, use, and/or sale of an illegal controlled substance, as reported by law enforcement.
 - h. Child is present and/or involved with a care giver who engages in violent behavior that demonstrates a disregard for the well being of the child as indicated by action that could reasonably result in serious* physical, mental, or threatened injury or emotional damage to the child.
 - i. *serious means: having important or dangerous consequences.
 - j. Emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development.
 - k. Child living with, being cared for by, or allowed access to a convicted, untreated sexual offender.
2. A parent, legal guardian, or caretaker who knowingly permits the continuing physical or sexual abuse of a child.
 3. Endangerment. A parent, legal guardian, or caretaker who endangers the child's person or health by:
 - a. intentionally or recklessly causing or permitting a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death; or
 - b. knowingly causing or permitting the child to be present where any person is selling, manufacturing, possessing immediate precursors or chemical substances with intent to manufacture, or possessing a controlled substance, as defined in section 152.01, subdivision 4, in violation of section 152.021, 152.022, 152.023, or 152.024
 - c. Endangerment by firearm access: causing a child under 14 years of age to be placed in a situation likely to substantially harm the child's physical

health or cause the child's death as a result of the child's access to a loaded firearm

III. A PERSON MANDATED TO REPORT OR ANY PERSON MAY MAKE A REPORT IF THEY KNOW OR HAVE REASON TO BELIEVE THAT A WOMAN IS PREGNANT AND HAS ENGAGED DURING THE PREGNANCY IN HABITUAL OR EXCESSIVE USE, FOR A NONMEDICAL PURPOSE OF A CONTROLLED SUBSTANCE . MN. Stat. 626.556

A The controlled substances are: heroin, cocaine, phencyclidine, amphetamine, methamphetamine, or their derivatives. MN. Stat. 253B, Subd. 2. Common street names:

1. Heroin: smack, H, horse.
2. Cocaine: coke, snow, lines, crack.
3. Amphetamines: speed, crank, crystal, white cross, dex
4. Methamphetamine: similar as amphetamines.
5. Phencyclidine: PCP, angel dust, dust.

B Initial reports are immediately handled as a child in need of protection or services (CHIPS) with an assertive offering of services. Services offered may include, but are not limited to, a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care.

C A neglect assessment shall be conducted when the following circumstances are alleged:

1. The newborn child displays physical manifestations of withdrawal syndrome.
2. A positive toxicology test performed on the mother at the time of delivery.
3. A positive toxicology test performed on the newborn child at birth.
4. Medical effects or developmental delays during the child=s first year of life that medically indicate prenatal exposure to a controlled substance.

D IF A PERSON MANDATED TO REPORT UNDER SECTION 626.556, SUBD. 3, KNOWS OR HAS REASON TO BELIEVE THAT A WOMAN IS PREGNANT AND HAS KNOWINGLY ABUSED ALCOHOL AFTER SHE KNOWS OF THE PREGNANCY, THE PERSON MAY:

1. Arrange for a chemical use assessment conducted according to the rules adopted by the Commissioner of Human Services under section 254A.02, subd. 3, and confirm that the recommendations indicated by the assessment are followed; or
2. Immediately report to the local welfare agency or maternal child substance abuse project; or
3. If the woman referred to for a chemical use assessment fails to obtain an assessment or refused to comply with the recommendations of the assessment, a report must be made to the local welfare agency or maternal child substance abuse project.

The report shall be of sufficient content to identify the pregnant woman, the nature and extent of the abuse of alcohol, and the name and address of the reporter.

The local welfare agency receiving the report shall, within five (5) working days, conduct an appropriate assessment and offer services indicated under the circumstances. The local agency may meet the requirement through a referral to a local maternal child substance abuse project.

. Services offered must include a chemical use assessment. If the assessment indicates that a woman is in need of treatment, the local agency must arrange for a provision of the indicated level of care. If the woman refused to comply or is found to be continuing the abuse of alcohol, the local welfare agency shall report the disposition of the case to the Commissioner of Human Services.

IV. MEDICAL NEGLIGENCE INCLUDES, BUT IS NOT LIMITED TO, THE WITHHOLDING OF MEDICALLY INDICATED TREATMENT FROM A DISABLED INFANT WITH A LIFE-THREATENING CONDITION. THE TERM A WITHHOLDING OF MEDICALLY INDICATED TREATMENT@ MEANS THE FAILURE TO RESPOND TO THE INFANT=S LIFE-THREATENING CONDITIONS BY PROVIDING, TREATMENT, INCLUDING APPROPRIATE NUTRITION, HYDRATION, AND MEDICATION WHICH, IN THE TREATING PHYSICIAN=S OR PHYSICIAN=S REASONABLE MEDICAL JUDGEMENT, WILL BE MOST LIKELY TO BE EFFECTIVE IN AMELIORATING OR CORRECTING ALL SUCH CONDITIONS. EXCEPTIONS ARE:

- A The infant is chronically and irreversibly comatose;
- B The provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the life-threatening conditions, or otherwise be futile in terms of the infant's survival.
- C The treatment would be virtually futile and would be inhumane.

609.378 Neglect or endangerment of a child.

Subdivision 1. Persons guilty of neglect or endangerment. (a) Neglect. (1) A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and the deprivation harms or is likely to substantially harm the child's physical, mental, or emotional health is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. If the deprivation results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both. If a parent, guardian, or caretaker 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, this treatment or care is "health care," for purposes of this clause.

Subd. 2. Defenses. It is a defense to a prosecution under subdivision 1, paragraph (a), clause (2), or paragraph (b), that at the time of the neglect or endangerment there was a reasonable apprehension in the mind of the defendant that acting to stop or prevent the neglect or endangerment would result in substantial bodily harm to the defendant or the child in retaliation.