



**Joint Report:
Agency Jurisdiction
on Investigations of
Alleged
Maltreatment of
Minors**

January 2007

**FY 2007
Report
To the
Legislature**

**As required by
Minn. Stat. 626.556
subd. 3c(d)**

COMMISSIONER:

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**Agency
Jurisdiction on
Investigations
of Alleged
Maltreatment
of Minors**

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Upon request, this report can be made available in alternative formats.

ESTIMATED COST OF PREPARING THIS REPORT

This report required the collection of information that the Department of Education, Department of Human Service, and the Department of Public Safety does not collect as part of its normal business functions. It was therefore necessary to gather and analyze information in order to prepare this report. The cost of preparing this report includes estimates of the Departments information collection costs as well as analyzing the data, determining recommendations, and preparing this report.

Special funding was not appropriated for the costs of preparing this report.

The estimated cost incurred by the Minnesota Department of Education, Minnesota Department of Human Service, and the Minnesota Department of Public Safety in preparing this report is \$2718.87.

JOINT REPORT: AGENCY
JURISDICTION ON
INVESTIGATIONS OF ALLEGED
MALTREATMENT OF MINORS

SUBMITTED BY:

MINNESOTA DEPARTMENT OF EDUCATION
MINNESOTA DEPARTMENT OF HUMAN SERVICES
MINNESOTA DEPARTMENT OF PUBLIC SAFETY

JANUARY 15, 2007

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INTRODUCTION

Minnesota Statute §626.556, the Maltreatment of Minors Reporting Act, states “the public policy of this state is to protect children whose health or welfare may be jeopardized through physical abuse, neglect, or sexual abuse... In addition, it is the policy to require the reporting of neglect, physical or sexual abuse of children in the home, school, and community settings; to provide for the voluntary reporting of abuse or neglect of children; to require the assessment and investigation of reports; and to provide protective, family support, and family preservation services when needed in appropriate cases...”

Minn. Stat. §626.556 subd. 3(b) states:

The Department of Education is the agency responsible for assessing or investigating allegations of child maltreatment in schools as defined in sections 120A.05, subdivisions 9, 11, subdivision 13; and 124D.10”

Minn. Stat. §626.556 subd. 3(c) states:

(a) the county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, and legally unlicensed child care and in juvenile correctional facilities licensed under section 241.021 located in the local welfare agency’s county,

(b) The Department of Human Services is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under chapters 245A and 245B, except for child foster care and family child care.

LEGISLATIVE DIRECTIVE

During the 2006 Legislative Session, a bill was introduced clarifying investigative and reporting responsibilities under the Maltreatment of Minors Reporting Act. The bill as proposed raised multiple questions and concerns regarding jurisdiction. As a result, the legislature passed the following directive:

“(d) The commissioners of human services, public safety and education must jointly submit a written report by January 15, 2007 to the education policy and finance committees of the legislature recommending the most efficient and effective allocation of agency responsibility for assessing or investigating reports of maltreatment and must specifically address allegations of maltreatment that currently are not the responsibility of a designated agency.”

Minnesota Law 2006 Chapter 626.556. Article 3c subdivision (d.)

WORK GROUP PARTICIPANTS

In accordance with the statute, the commissioners of education, human services, and public safety jointly convened a work group with legislatively mandated representatives. Members included:

- Jennifer Alexander, Minnesota Department of Education
- Amy Roberts, Minnesota Department of Education
- Jerry Kerber, Minnesota Department of Human Services
- Maura McNellis-Kubat, Minnesota Department of Human Services
- David Thompson, Minnesota Department of Human Services
- Marie Bibus, Minnesota Department of Public Safety

MEETINGS

The work group met over the Fall of 2006 and discussed the legislative mandate to prepare and submit a joint report on the jurisdiction of maltreatment investigations, the legislative history of the Maltreatment of Minors Act, the language from the 2006 Session, and the need to clearly define jurisdiction to ensure that the appropriate agency is designated as the responsible party to investigate reports of alleged maltreatment.

Work group members evaluated current agency investigations with an emphasis on identifying areas where statutory jurisdiction is unclear, discussed with relevant agency staff any historical or additional information regarding investigation of maltreatment in these areas, and proposed possible solutions to define agency involvement and jurisdiction.

Work group members also considered the various limitations on agency authority and agreed that expansion of agency jurisdiction required specific legislative action. The work group noted that given current caseloads, expansion of agency jurisdiction would likely result in a need for increased staff. Work group members also discussed possible approaches other than clarifying jurisdiction which would help ensure and enhance the legislative intent to protect children whose health or welfare may be jeopardized through physical abuse, neglect, or sexual abuse.

The findings and recommendations of the designated work group are outlined below.

FINDINGS

Work group members considered several factors when identifying programs and facilities where current agency jurisdiction of the program was unclear or absent. These included identifying programs that currently or previously had state agency oversight or licensure requirements, the geographical location of the programs and facilities, the facility or program employer, whether or not the program was a privately or publicly run program, parental involvement, law enforcement involvement, and an understanding of the population of potential alleged victims and alleged offenders.

Areas that were identified as not having clear oversight with respect to maltreatment investigations included programs such as the school-age care programs, early childhood family education programs and day treatment programs.

School-Age Care Programs

Several issues became apparent when attempting to determine jurisdiction to investigate reports of alleged maltreatment in school-age care programs. Pursuant to Minn. Stat. §124D.19 subd. 11, a school board may offer, as part of a community education program, a school-age care program for children from kindergarten through grade 6 for the purpose of expanding students' learning opportunities. A school-age care program must include (1) adult supervised programs while school is not in session, (2) parental involvement in program design and direction, (3) partnerships with the kindergarten through grade 12 system, and other public, private, or nonprofit entities, (4) opportunities for trained

secondary school pupils to work with younger children in a supervised setting as part of a community service program, and (5) access to available school facilities.

School-age care programs take many forms throughout the state. For example, some are offered at secondary or elementary school sites within a district while other programs are held at local community centers. In some instances, the services are provided by licensed teachers or paraprofessionals that have met certain educational requirements and certification, while in other instances, they are students, adults, or volunteers who do not require any prior experience or certification.

Work group members acknowledged that although school-age care programs are generally offered by the local school district through the community education department, and are usually funded partially with community education funds, those factors alone do not meet the definitions that determine jurisdiction within the Maltreatment of Minors Act. MDE jurisdiction to investigate allegations of maltreatment is established by the definition of “school.” The definition of “school” is limited to elementary, middle, and secondary schools. See, Minn. Stat. §626.556 subd. 3(b), and 120A.05, subd. 9, 11, and 13. The definitions do not account for or consider the program variations found with school-age care programs.

In addition, the Maltreatment of Minors Act, Minn. Stat. §626.556 subd. 3c, (1) and (2), states that county local welfare agencies and the Department of Human Services (DHS) are the agencies responsible for investigating reports of alleged maltreatment in child care facilities. However, school-age care programs are often hosted at locations other than licensed child care facilities. Furthermore, the work group learned that DHS previously investigated reports of alleged maltreatment in school-age care programs. However, DHS authority to investigate reports of alleged maltreatment in school-age care programs was discontinued after legislation was changed to exclude from licensure “programs operated by a public school for children 33 months or older”, Minn. Stat. 245A.03 subd. 2.

Recommendation:

The workgroup supports designating an agency or agencies responsible for investigations of alleged maltreatment in school-age care programs but acknowledged that a number of agencies could be appropriate depending on program specifics. As such, work group members agreed MDE should assume jurisdiction when school-age care programs are located in schools and when the allegation involves a school district employee.

As such, work group members recommend the legislature amend Minn. Stat. §626.556 subd. 3b as follows, “The Department of Education is the agency responsible for assessing or investigating allegations of child maltreatment in schools as defined in sections 120A.05, subdivisions 9, 11, subdivision 13; and 124D.10. The Department of Education is also the agency responsible for assessing or investigating allegations of child maltreatment in school-age care programs as defined by 124D.19 subd. 11, which are located in schools as defined in sections 120A.05, subdivisions 9, 11, 13 and 124D.10, and when the allegation identifies a school district employee as the person responsible for the alleged maltreatment.”

Early Childhood Family Education Programs

According to Minnesota Stat. Sec. 124D. 13, subd. 2, Early Childhood Family Education (ECFE) programs are programs for children in the period of life from birth to kindergarten, for the parents of such children, for expectant parents, and for relatives. A school district may choose to establish ECFE programs but there is no requirement to do so and no specific location where an ECFE program must occur. Pursuant to Minn. Stat. 124D.13 subd.11, a school board must employ necessary qualified teachers for its early childhood family education programs. In addition, Minn. Stat. § 124D.13 subd. 2 and 3(a), state that ECFE programs require substantial parental involvement which means parents must be physically present much of the time in the classes with their children or be in concurrent classes.

Because the definition of Early Childhood Family Education Programs does not fit within the limited definition of “schools” used in the Maltreatment of Minor’s Act and because the programs are exempt from DHS licensure requirements, currently, no state agency has jurisdiction.

Recommendation:

Although ECFE programs are held at a variety of locations within a school district, Minn Stat. 124D. 13 clearly requires both the presence of the child’s parent and a qualified teacher in order to operate a program. These requirements provide significant guidance to determine jurisdiction for investigation into allegations of maltreatment.

Work group members concluded that MDE should have jurisdiction to investigate allegations of maltreatment that occur at ECFE programs. However, in order to be consistent with the intent and language of the Maltreatment of Minors Act and MDE’s overall authority, jurisdiction should be limited to determining maltreatment where the alleged offender is a school district employee. In other words, MDE would not assume jurisdiction to determine maltreatment when the allegation involves parents of ECFE students.

As such, work group members recommend the legislature amend Minn. Stat. §626.556, subd. 3b, as follows, “The Department of Education is the agency responsible for assessing or investigating allegations of child maltreatment in schools as defined in sections 120A.05, subdivisions 9, 11, 13; and 124D.10, and 124D.13 when the allegation identifies a school district employee as the person responsible for the alleged maltreatment.”

School-Administered Day Treatment Programs

As required by current law, MDE investigates reports of alleged maltreatment in day treatment programs that are staffed by school district employees. Private day treatment programs that provide educational services by staff other than by school district employees are comparable to a private school setting, and therefore MDE does not have jurisdiction to investigate.

Also according to current law, DHS requires licensure and has authority to investigate reports of alleged maltreatment in day treatment programs that provide a therapeutic component.

Recommendation:

Work group members concluded current law clearly and accurately assigns jurisdiction to the appropriate agency.

Other Identified Areas

Work group members discussed other areas where jurisdiction may be unclear, such as Head Start, drop in-child care centers, and juvenile correctional facilities. Group members confirmed that these programs are licensed facilities and therefore under the jurisdiction of DHS, or the local county social service agencies pursuant to Minn. Stat. §626.556 subd.3(c), Section 241.021, and Chapters 245A and 245B.

In general, work group members were apprehensive about assigning an agency jurisdiction to investigate reports of alleged maltreatment in programs where the agency has no prior or other involvement with the program, or if the agency does not have authority to take any remedial action or have any impact on the program. While the intent to protect children is of the utmost concern, work group members discussed the differences between public and private sectors and the rights associated with a parents' choice to have their children participate in programs with limited government standards and oversight. However, work group members also were in agreement that if a situation of alleged maltreatment of a minor occurs, and a specific agency has not been given authority to investigate, these reports should be referred to the local law enforcement agency. This is consistent with the current statute, Minn. Stat. §626.556 subd.10a which states;

If the report alleged neglect, physical abuse, or sexual abuse by a person responsible for the child's care function outside the family unit in a setting other than a facility as defined in subdivision 2, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged abuse or neglect.

Additional Recommendation

In addition to complying with the legislative directive to provide the legislature with recommendations on the efficient and effective allocation of agency responsibility for assessing or investigating reports of alleged maltreatment of minors, the work group also discussed an alternative solution to enhance the legislative intent to protect the welfare of children in the home, school, and community settings.

Work group members discussed the need for a repository for information regarding child abuse offenders which would require all agencies who conduct investigations of alleged maltreatment to notify the keeper of the data on offenders who have maltreated in home, school, and community settings. This repository would inform all necessary statewide jurisdictions of updated information on sex offenders. It would also lay the groundwork for compliance with the recent federal enactment of the Adam Walsh Child Protection and Safety Act of 2006 which requires all jurisdictions to provide information on sex offenders to the National Sex Offender Registry. Currently, local county social service agencies utilize the Social Service Information System (SSIS), which is a centralized database system maintained by the Department of Human Services, and used to monitor, among other services, investigations of alleged maltreatment throughout the state of Minnesota. Current legislation does not give MDE access to this system, nor does current legislation allow MDE to notify the Department of Human Services of any substantiated maltreatment offenders in order for that information to be tracked on the main repository. Work group members recommend the legislature amend Minn. Stat. §626.556 to allow MDE, and other agencies that conduct investigations of alleged maltreatment, access to the information on maltreatment offenders maintained in the SSIS system, and require these agencies to notify the Department of Human Services of any substantiated maltreatment offenders. This recommendation would serve to further protect the children of our state and ensure accurate and updated information was provided to the National Sex Offender Registry as mandated by federal law.

To achieve this sharing of information, work group members recommend the legislature amend Minn. Stat. Sec. 626.556, subd.10h (and then renumber the subdivisions accordingly) to read as follows:

Subd. 10h Agency Notification and Exchange of Offender Information

(1) The commissioner of education must provide to the commissioner of human services the final dispositions of substantiated reports of maltreatment, including the name of the victim, the identity of the individual or facility determined to have maltreated, the nature of the maltreatment, and the date of the agency's final disposition. The commissioner of human services shall establish records to retain the names of substantiated offenders.

(2) Prior reports of maltreatment, including the identity of individuals determined to have maltreated a minor, which is maintained by the commissioner of human services, shall be made available to the commissioner of education upon request pursuant to Minn. Stat. 626.556 subd.10(h)(2) and subd. 10g.

CONCLUSION

In closing, the 2006 Minnesota Legislature directed the commissioners of human services, public safety and education to recommend the most efficient and effective allocation of agency responsibility for assessing or investigating reports of maltreatment. A work group appointed by the respective commissioners met to study and discuss jurisdictional needs within the Maltreatment of Minors Act. The work group makes the following recommendations. The work group supports designating an agency or agencies responsible

for investigations of alleged maltreatment in school-age care programs and recommends MDE assume responsibility for investigations of alleged maltreatment in school-age care programs that are located in a school as defined within the Maltreatment of Minors Act, and where a school district employee is identified as the person responsible for the alleged maltreatment. The work group recommends MDE assume jurisdiction of ECFE programs where school district employees are identified as the person responsible for the alleged maltreatment. The work group also recommends thoughtful consideration be taken when assigning jurisdiction over programs where the agency has no prior involvement with the program or no authority to have any impact on the program. As indicated in current law, Minn. Stat. §626.556 subd. 10a, the local law enforcement agency is the agency responsible for investigations of alleged maltreatment when no other agency has jurisdiction.

Finally, in addition to complying with the legislative directive to address agency jurisdiction for assessing and investigating reports of alleged maltreatment, the work group recommends the legislature consider implementing a repository for information regarding child abuse offenders which would require all agencies who conduct investigations of alleged maltreatment to notify a designated agency of offenders that have maltreated in home, school, and community settings. The work group makes this recommendation in alignment with the basic legislative intent to protect the welfare of children in the home, school and community settings.

