

# **Confidential Services Available to Youth in Wisconsin**

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## Overview

Wisconsin law provides some limited circumstances in which youth may access confidential services independently. Specific questions regarding how these circumstances apply in the reader's work setting should be referred to that organization's legal counsel. Applicable statutes and other authoritative sources are cited in the narrative. Questions regarding this publication may be directed to Nic Dibble, Consultant, School Social Work Services, at (608) 266-0963 or [nic.dibble@dpi.wi.gov](mailto:nic.dibble@dpi.wi.gov).

## School Services

Students in public schools have limited privileged communications regarding any discussions or disclosures with school staff.

1. Voluntary disclosures by a student of use of alcohol and other drugs by the student or other students to pupil services professionals or other educators in the school designated by the school board as being part of the school district's alcohol and other drug program may not be disclosed, unless 1) the student gives consent in writing, 2) there is serious and imminent danger, or 3) a report must be made for suspected child maltreatment under Ch. 48. *Reference:* Wis. Stat. sec. [118.126](#).
2. Services related to reproductive health from a school nurse are confidential. The school nurse may not disclose information related to reproductive health services to other school staff or parents without the student's written consent. See the Family Planning Services section below for more information.
3. Personal records of an educator are not pupil records and are not available to others, including other educators and parents. *Reference:* Wis. Stat. sec. [118.125\(1\)\(d\)](#); [34 CFR 99.3](#).
4. Psychological treatment records that are available only to persons involved in the psychological treatment of a student are not pupil records and are not available to others, including other educators and parents. *Reference:* Wis. Stat. sec. [118.125\(1\)\(d\)](#).

Federal law defines "psychological treatment" as an activity involving the planned, systematic use of methods or techniques that are not directly related to academic instruction and that is designed to affect behavioral, emotional, or attitudinal characteristics of an individual or group. *Reference:* [34 CFR 98.4\(a\)](#) and [\(c\)](#).

## Sexual Assault and Domestic Violence Services

Like adults, youth may confidentially (i.e., anonymously) access 24-hour crisis lines operated by sexual assault and domestic violence centers. Before any direct services (e.g., counseling, advocacy) are provided, written consent of a parent/guardian is generally necessary. However, practices of specific sexual assault and domestic violence centers in Wisconsin vary. Readers should contact the center(s) within their respective areas for information about their local policies and practices regarding services to youth. Additional information can be obtained through the Wisconsin Coalition Against Sexual Assault (WCASA) at <http://wcasa.org> and the Wisconsin Coalition Against Domestic Violence (WCADV) at <http://www.endabusewi.org/>.

## Family Planning Services

Family planning clinics must treat all information gathered, including any personally identifiable information, as part of a confidential medical record. Information may not be released without informed consent with the exception of statistical information compiled without reference to anyone's identity. No distinction is made based upon age. *References:* Wis. Stat. sec. [253.07\(3\)\(c\)](#); [905.04\(1\)\(c\)](#), (2), and (3). Patients may claim privileged communication for diagnosis or treatment of the patient's physical, mental or emotional condition. *Reference:* Wis. Stat. sec. [905.04\(1\)\(c\)](#), (2), and (3). Consequently, minors may access confidential family planning services. Relevant U.S. Supreme Court decisions include *Planned Parenthood of Central Missouri v. Danforth*, [428 U.S. 52](#) (1976) and *Carey v. Population Services International*, [431 U.S. 678](#) (1977).

Wisconsin law provides an exception to the reporting requirement for suspected child maltreatment to allow children to access confidential health care services. A health care provider (i.e., a physician, nurse or physician's assistant) providing family planning services to a minor need not report suspicion of the minor's sexual activity, unless the health care provider believes the minor:

1. had or is likely to have sexual contact or intercourse with a caregiver;
2. is unable to understand the nature or consequences of being sexually active due to mental illness, mental deficiency, age, or immaturity;
3. was unconscious or unable to communicate unwillingness (e.g., intoxicated) to engage in sexual intercourse or contact at the time of the act; or
4. is being or has been sexually exploited.

Additionally, a health care professional must contact county child protective services if she or he has any reasonable doubt as to the voluntary nature of the minor's sexual activity. This same exception to the mandated reporting requirement applies to a person who learns a minor has accessed or is accessing family planning services. *Reference:* Wis. Stat. sec. [48.981\(2m\)](#).

The Wisconsin Medicaid Family Planning Waiver Program allows people at least 15 years old and of child-bearing age whose income is not more than 300% of the federal poverty level to receive limited family planning services (e.g., oral contraceptives, natural family planning services, family planning pharmacy visits, initial and family planning office visits, tests for sexually transmitted infections). A minor's parents' income is not included in determining financial eligibility. Application for services can be completed at any family planning or primary care clinic. There is a presumption of eligibility, so services can be provided immediately. More information can be obtained through the Wisconsin Maternal and Child Health Program at <https://www.dhs.wisconsin.gov/health/mch/index.htm>.

## Legal Representation

Juveniles have a legal right to counsel in both criminal and juvenile proceedings. Discussions between an attorney and a client are privileged. *References:* Wis. Stat. sec. [48.23\(1m\)](#) and [938.23\(1m\)](#).

## **Alcohol and Other Drug Services**

Juveniles 12 years of age or older may consent to some limited alcohol and other drug treatment services without the knowledge of their parents/guardians. Information about these limited services may be disclosed only with the written consent of the juvenile. *Reference:* Wis. Stat. sec. 51.45(2m), (14), and 51.47. More information is available at <https://www.dhs.wisconsin.gov/clientrights/minors.htm>.

## **Mental Health Services**

Minors may not independently access mental health services (i.e., informed written consent of a parent/guardian is required). With some exceptions, juveniles 14 years of age and older have a right to a hearing if mental health services are being provided without the juvenile's permission. *Reference:* Wis. Stat. sec. 51.61(1)(n), (w)2., and (6). More information is available at <https://www.dhs.wisconsin.gov/clientrights/minors.htm>.

## **HIV Test Results**

The HIV test results of juveniles 14 years of age and older may not be disclosed without the juvenile's prior written consent, unless the juvenile has been adjudicated incompetent under Ch. 880 or is unable to communicate due to a medical condition. *Reference:* Wis. Stat. sec. 252.15(3m)(a) and (c).

## **Services for Runaway Youth**

Consent is not required for youth to access services (i.e., crisis intervention, assistance accessing local services) from runaway centers. In addition, information may not be disclosed without the youth's consent. However, if a youth is accepted into a temporary shelter, the parent/guardian must be contacted in not more than 72 hours, but preferably within 24 hours. *Reference:* Section 312, 42 USC 4712. Additional information may be obtained from the Wisconsin Association of Homeless and Runaway Youth (WAHRS) at <http://wahrs.org>.