

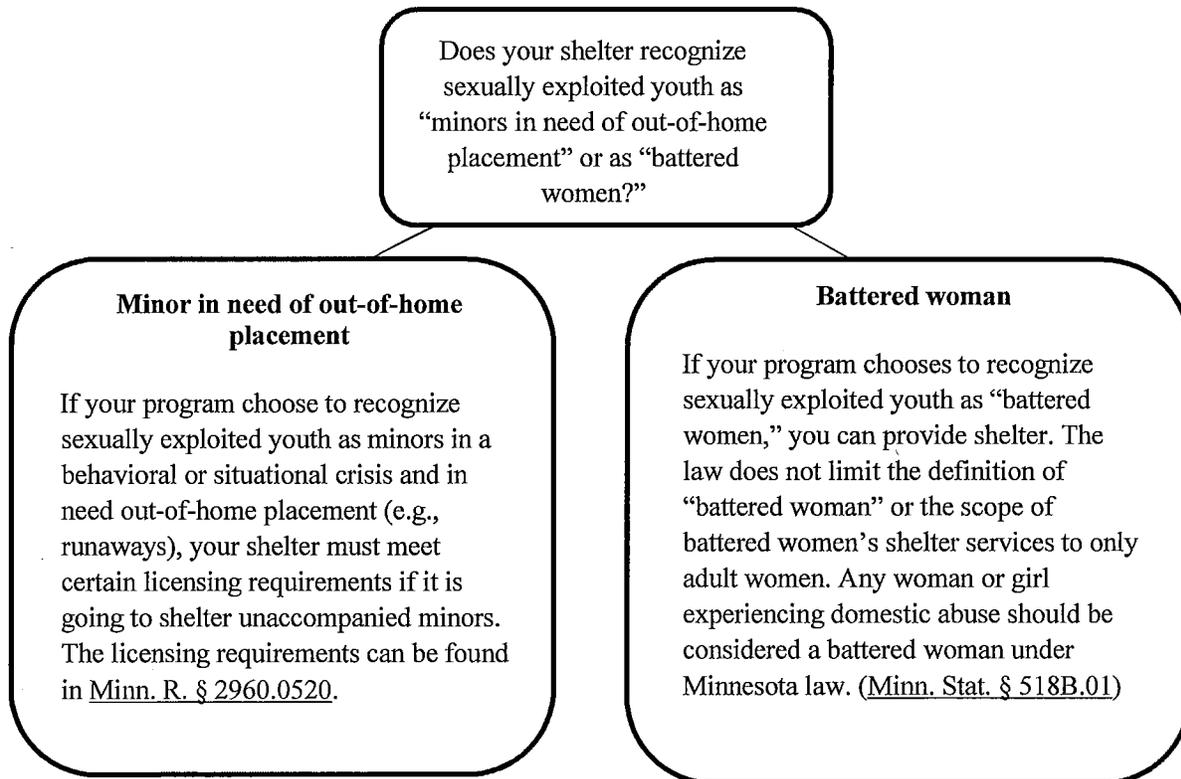


Providing Shelter and Services to Unaccompanied Minors

The Safe Harbor for Sexually Exploited Youth Act is silent on requirements for shelter and services for sexually exploited youth.¹ Since Safe Harbors is silent on the specific questions of providing services to unaccompanied minors, MCBW is providing a list of questions and answers that your program can work through when discussing and deciding how your program wants to serve unaccompanied minors. Your program should consider your existing policies and protocols for serving unaccompanied minors as use those as a starting guide in this discussion.

1. Can we shelter an unaccompanied minor?²

- Maybe.



¹ Minn. Stat. § 145.4716.

² A minor is any individual under the age of 18. If the minor is accompanied by a parent or guardian, the minor can receive shelter services.

Your program's interpretation of an unaccompanied minor's "status" as a battered woman or minor in need of out-of-home placement could depend on your county's mandatory reporting requirements,³ or how you come to know the unaccompanied minor. If the minor is brought to your shelter by a police officer who says the minor was picked up because they are a runaway or a sex trafficked youth, you may be more likely to consider the minor a runaway. If the minor arrived at your program on her own in need of shelter services (for example, she is fleeing from her boyfriend who is sex trafficking her), you may be more likely to consider her a battered woman. If your county attorney or child protective services has a policy that classifies unaccompanied minors, you should consider those definitions.

2. If we provide shelter services to an unaccompanied minor can our shelter be charged with contributing to delinquency?

- Probably not.
 - Licensed social services agencies and outreach workers who, while acting within the scope of their professional duties, provide services to runaway youth, will not get in trouble for contributing to the minor's status as a delinquent. Battered women's shelters should be considered to fall under this exemption. (Minn. Stat. § 260B.425)

3. Must we notify an unaccompanied minor's parent/guardian if providing shelter to the minor?

- Maybe.
 - If the minor is considered a "runaway" you must attempt to notify an unaccompanied minor's parent or legal guardian of the minor's location and status within 72 hours of the minor's arrival. The minor is a runaway if she is unmarried, under 18, and absent from her parent or guardian's home without the consent of her parent or guardian. You *do not* have to notify a minor's parents if there are compelling reasons not to provide this information. "Compelling reasons" include:
 - The minor has been exposed to domestic violence
 - The minor is a victim of abuse—i.e., the minor is a victim of sex trafficking
 - The minor is a victim of neglect or abandonment
 - Contacting the minor's parent/guardian could put the child in danger (Minn. Stat. § 260C.177)

³ See MCBW's *Advocate's Confidentiality Guide* for information about when you have to report sexual exploitation of a minor.

4. Can we provide support services (other than shelter) to an unaccompanied minor?

- Yes.
 - If the unaccompanied minor is considered a “battered woman” she can receive “support services” such as advocacy, emotional support, counseling, legal information, medical referral, transportation, child care, information and referral services, and other services. See below for specific rules regarding minors and health services. (Minn. Stat. § 518B.01)

5. Must we notify an unaccompanied minor’s parent/guardian if providing services to the minor?

- No.
 - The law is silent about notification requirements when providing support services to unaccompanied minors. Due to confidentiality requirements, you may not notify an unaccompanied minor’s parent/guardian unless the minor gives you permission to do so.⁴

Unaccompanied Minors’ Access to Services Outside Your Program

1. Can an unaccompanied minor consent to and receive health services?

- In a lot of instances, yes.
 - An unaccompanied minor can consent to medical, mental, or other health services to determine the presence of or to treat pregnancy and conditions associated with pregnancy,⁵ venereal disease, alcohol abuse, and other drug abuse. (Minn. Stat. § 144.343)
 - If the unaccompanied minor is living apart for her parents/guardians and managing her financial affairs, she can consent to personal medical, dental, mental, and other health services. (Minn. Stat. § 144.341)
 - If the unaccompanied minor has been married or has given birth to a child, she may consent to personal medical, dental, mental, and other health services. She can also consent to health services for her child. (Minn. Stat. § 144.342)
 - Any emergency medical, dental, mental, and other health services can be given to minors without parental consent when, in a professional’s judgment, the risk to the minor’s life or health is of such a nature that treatment should be given without delay and trying to obtain parental consent would result in delay or denial of treatment. (Minn. Stat. § 144.344)

⁴ See MCBW’s *Advocate’s Confidentiality Guide* for more information.

⁵ Excludes abortion. A minor must get parental consent or a judicial bypass to receive an abortion in Minnesota.

2. If an unaccompanied minor consents to and receives health services, does the health care professional have to notify the minor's parents?

- Probably not.
 - The professional may not inform the minor's parents/guardian of any treatment given unless, in the professional's judgment, failure to inform the parent/guardian would seriously jeopardize the health of the minor. (Minn. Stat. § 144.346)

3. Can a health care provider be held criminally liable for providing health services to a minor who said she can legally consent to health services, but actually cannot consent?

- Probably not.
 - Under Minnesota law the consent of a minor who claims she can legally give consent for health services is considered effective consent, as long as the person providing the services relied upon the misrepresentations of the minor. You will not get in trouble if truly believe the minor was able to consent to the services. (Minn. Stat. § 144.345)

4. Can an unaccompanied minor file for an Order for Protection (OFP) on her own behalf?

- Probably not.
 - An unaccompanied minor under the age of 16 can never file an OFP on her own behalf.⁶
 - An unaccompanied minor 16 or older can request an OFP on her own behalf against a spouse, former spouse, or a person with whom the minor has a child. (Minn. Stat. § 518B.01)

5. Can an advocate file an OFP for an unaccompanied minor?

- Probably.
 - A reputable adult age 25 or older may request an OFP on behalf of a minor experiencing domestic abuse if the court finds it is in the best interests of the minor. (Minn. Stat. § 518B.01)

6. If an advocate files for an OFP on behalf of a minor child, does the advocate have a legal obligation to care for the child?

- No.

⁶ If the minor is accompanied by a parent, guardian, or other family or household member, the parent/guardian or family or household member may request and OFP on behalf of the minor. (Minn. Stat. § 518B.01)

- By filing an OFP on behalf of a minor child, the advocate does not become a guardian for the child and has no legal authority over the child. The advocate is filing the petition and has an obligation to attend the OFP hearings on behalf of the minor child. There are no further legal obligations.
- Whomever had legal custody/guardianship of the child, continues to have those rights until a court makes a specific determination changing that relationship.

