

**216 CHIPS: ABUSE BY METHAMPHETAMINE MANUFACTURING [WIS. STAT. § 48.13(3) and § 48.02(1)(g)]**

The petition in this case alleges that (child) has been the victim of abuse. Your role as jurors will be to answer the following question in the special verdict:

1. Was (child) the victim of abuse?

The burden is on (petitioner) to convince you by evidence that is clear, satisfactory, and convincing, to a reasonable certainty, that the question should be answered "yes."

In this case, "abuse" means manufacturing methamphetamine in violation of Wisconsin Statute § 961.41 under any of the following circumstances:

- X with a child physically present during the manufacture;
- X in a child's home, on the premises of a child's home, or in a motor vehicle located on the premises of a child's home; or
- X under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child.

Wisconsin Statute § 961.41 makes it unlawful to manufacture methamphetamine.

The burden is on (petitioner) to establish that abuse occurred, but (petitioner) need not prove who caused the abuse.

If you are convinced by evidence that is clear, satisfactory, and convincing, to a reasonable certainty, that (child) was the victim of abuse, you should answer the question in the special verdict "yes." If you are not so convinced, you must answer the question "no."

**SPECIAL VERDICT**

1. Was (child) the victim of abuse?

Answer: \_\_\_\_\_  
Yes or No

**COMMENT**

Wis JI-Children 216 and comment were approved by the Committee in 2006. Editorial corrections were made to the instruction in 2010 and to the comment in 2008 and 2009.

This instruction is for use when jurisdiction is alleged under subsections 48.13(3) and 48.02(1)(g), based on manufacturing of methamphetamine. This jurisdictional ground was added by 2005 Wis. Act 113. For a detailed discussion of "manufacturing" see Wisconsin Jury Instructions-Criminal 6021 and the instruction's extensive commentary.

Subsection 48.13(3) now provides as follows:

**48.13 Jurisdiction over children alleged to be in need of protection or services.**

The court has exclusive original jurisdiction over a child alleged to be in need of protection or services which can be ordered by the court, and:

(3) Who has been the victim of abuse, as defined in s. 48.02(1) (a), (b), (c), (d), (e), (f), or (g), including injury that is self-inflicted or inflicted by another

Subsection 48.02(1)(a) defines "abuse" to include manufacturing methamphetamine under any of the following circumstances:

(a) Physical injury inflicted on a child by other than accidental means.

The term "physical injury" is defined in 48.02(14g):

(14g) "Physical injury" includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe or frequent bruising or great bodily harm, as defined in s. 939.22(14).