

**219 CHIPS: ABUSE: PROSTITUTION: VIOLATION OF WIS. STAT. § 944.30
[WIS. STAT. § 48.13(3) and 48.02(1)(d)]**

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 prove by evidence that is clear, satisfactory, and convincing, to a reasonable certainty, that the question should be answered "yes."

In this case, "abuse" means that (child) had not yet attained the age of 18 years and was subjected to "prostitution," which means permitting, allowing, or encouraging a child to engage in an act of nonmarital sexual intercourse or sexual contact for anything of value.

While the burden is on (petitioner) to establish that abuse occurred, (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 219 and comment were approved in 1997 and revised in 2004. The instruction was revised in 2009. The comment was updated in 2008, 2009, and 2010.

Wis. Stat. § 48.13(3) provides:

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

For the definition of "abuse," see Wis. Stat. § 48.02(1). The term "abuse" in § 48.02(1)(d) includes "permitting, allowing, or encouraging a child to violate § 944.30," which defines "prostitution."

The Committee concluded that the jury should be instructed that the identity of the alleged abuser need not be proved based upon the language of the statute.

While this ground for CHIPS jurisdiction does not require proof of the identity of the alleged abuser, the court might wish to consider submitting an advisory verdict on this issue. Proposed language for an advisory verdict is found in Wis JI-Children 220. Its purpose is discussed in the comment to that instruction.