



Child Welfare Information Gateway

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STATE
STATUTES
SERIES

Current Through
April 2007

Definitions of Child Abuse and Neglect

Child abuse and neglect are defined by Federal and State laws. The Child Abuse Prevention and Treatment Act (CAPTA) is the Federal legislation that provides minimum standards that States must incorporate in their statutory definitions of child abuse and neglect. The CAPTA definition of "child abuse and neglect" refers to:

- "Any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse, or exploitation, or an act or failure to act which presents an imminent risk of serious harm"¹

¹ 42 U.S.C.A. § 5106g(2) (West Supp. 1998).

Electronic copies of this publication may be downloaded at www.childwelfare.gov/systemwide/laws_policies/statutes/define.cfm

To find statute information for a particular State, go to www.childwelfare.gov/systemwide/laws_policies/search/index.cfm

To find information on all the States and territories, order a copy of the full-length PDF by calling 800.394.3366 or 703.385.7565, or download it at www.childwelfare.gov/systemwide/laws_policies/statutes/defineall.pdf

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Types of Abuse

The CAPTA definition of “sexual abuse” includes:

- “The employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or
- The rape, and in cases of caretaker or interfamilial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children”²

All States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands provide definitions of child abuse and neglect in statute. As applied to reporting statutes, these definitions determine the grounds for State intervention in the protection of a child’s well-being.³ States recognize the different types of abuse in their definitions, including physical abuse, neglect, sexual abuse, and emotional abuse. Some States also provide definitions in statute for parental substance abuse and/or for abandonment as child abuse.

Physical Abuse

Physical abuse is generally defined as “any nonaccidental physical injury to the child” and can include striking, kicking, burning, or biting the child, or any action that results in a physical impairment of the child. In approximately 36 States and American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, the definition of abuse also includes acts or circumstances that threaten the child with harm or create a substantial risk of harm to the child’s health or welfare.⁴

² 42 U.S.C.A. § 5106g(4) (West Supp. 1998).

³ The term “child” means a person who has not attained age 18.

⁴ The States are Alabama, Alaska, Arkansas, California, Colorado, Florida, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming. In addition, Arizona, Kansas, New Hampshire, Washington, and the District of Columbia address the issue of risk of harm in their definitions of neglect.

Neglect

Neglect is frequently defined in terms of deprivation of adequate food, clothing, shelter, medical care, or supervision. Approximately 21 States and American Samoa, Puerto Rico, and the Virgin Islands include failure to educate the child as required by law in their definition of neglect.⁵ Seven States further define medical neglect as failing to provide any special medical treatment or mental health care needed by the child.⁶ In addition, four States define as medical neglect the withholding of medical treatment or nutrition from disabled infants with life-threatening conditions.⁷

Sexual Abuse/Exploitation

All States include sexual abuse in their definitions of child abuse. Some States refer in general terms to sexual abuse, while others specify various acts as sexual abuse. Sexual exploitation is an element of the definition of sexual abuse in most jurisdictions. Sexual exploitation includes allowing the child to engage in prostitution or in the production of child pornography.

Emotional Abuse

All States and territories except Georgia and Washington include emotional maltreatment as part of their definitions of abuse or neglect. Approximately 22 States, the District of Columbia, the Northern Mariana Islands, and Puerto Rico provide specific definitions of emotional abuse or mental injury to a child.⁸ Typical language used in these definitions is "injury to the psychological capacity or emotional stability of the child as evidenced by an observable or substantial change in behavior, emotional response, or cognition," or as evidenced by "anxiety, depression, withdrawal, or aggressive behavior."

⁵ The word *approximately* is used to stress the fact that the States frequently amend their laws. This information is current only through April 2007. The States that define "failure to educate" as neglect include Arkansas, Colorado, Connecticut, Delaware, Idaho, Indiana, Kentucky, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, South Carolina, South Dakota, West Virginia, and Wyoming.

⁶ Mississippi, North Dakota, Ohio, Oklahoma, Tennessee, Texas, and West Virginia.

⁷ Indiana, Kansas, Minnesota, and Montana.

⁸ Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Kentucky, Maine, Maryland, Minnesota, Montana, Nevada, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Wisconsin, and Wyoming.

Parental Substance Abuse

Parental substance abuse is an element of the definition of child abuse or neglect in some States.⁹ Circumstances that are considered abuse or neglect in some States include:

- Prenatal exposure of a child to harm due to the mother's use of an illegal drug or other substance¹⁰
- Manufacture of a controlled substance in the presence of a child or on the premises occupied by a child¹¹
- Allowing a child to be present where the chemicals or equipment for the manufacture of controlled substances are used or stored¹²
- Selling, distributing, or giving drugs or alcohol to a child¹³
- Use of a controlled substance by a caregiver that impairs the caregiver's ability to adequately care for the child¹⁴

Abandonment

Many States and territories now provide definitions for child abandonment in their reporting laws. Approximately 18 States and the District of Columbia include abandonment in their definition of abuse or neglect.¹⁵ Approximately 13 States, Guam, Puerto Rico, and the Virgin Islands provide separate definitions for establishing abandonment.¹⁶ In general, it is considered abandonment of the child when the parent's identity or whereabouts are unknown, the child has been left by the parent in circumstances in which the child suffers serious harm, or the parent has failed to maintain contact with the child or to provide reasonable support for a specified period of time.

⁹ For a more complete discussion of this issue, see Child Welfare Information Gateway's *Parental Drug Use as Child Abuse*: www.childwelfare.gov/systemwide/laws_policies/statutes/drugexposed.cfm.

¹⁰ Arkansas, Colorado, the District of Columbia, Illinois, Iowa, Louisiana, Massachusetts, Minnesota, North Dakota, South Dakota, and Wisconsin.

¹¹ Colorado, Indiana, Iowa, Montana, Ohio, Oregon, South Dakota, Tennessee, Virginia, and Washington.

¹² Arizona, New Mexico, and Washington.

¹³ Arkansas, Florida, Guam, Hawaii, Illinois, Minnesota, Ohio, and Texas.

¹⁴ Kentucky, New York, Rhode Island, and Texas.

¹⁵ Colorado, Connecticut, Florida, Illinois, Kentucky, Louisiana, Minnesota, Nevada, New Jersey, North Carolina, Oklahoma, Rhode Island, South Dakota, Texas, Vermont, Virginia, West Virginia, and Wyoming.

¹⁶ Arizona, Arkansas, Idaho, Indiana, Kansas, Maine, Montana, New Hampshire, New Mexico, New York, North Dakota, Ohio, and South Carolina.

Standards for Reporting

The standards for what constitutes an abusive act vary among the States. Many States define abuse in terms of harm or threatened harm to a child's health or welfare. Other standards commonly seen include "acts or omissions," "recklessly fails or refuses to act," "willfully causes or permits," and "failure to provide." These standards guide mandatory reporters in deciding whether to make a report to child protective services.

Persons Responsible for the Child

In addition to defining acts or omissions that constitute child abuse or neglect, several States' statutes provide specific definitions of persons who can be reported to child protective services as perpetrators of abuse or neglect. These are persons who have some relationship or regular responsibility for the child. This generally includes parents, guardians, foster parents, relatives, or other caregivers responsible for the child's welfare.

Exceptions

A number of States provide exceptions in their reporting laws that exempt certain acts or omissions from their statutory definitions of child abuse and neglect. For instance, in 11 States and the District of Columbia, financial inability to provide for a child is exempted from the definition of neglect.¹⁷ In 14 States, the District of Columbia, American Samoa, and the Northern Mariana Islands, physical discipline of a child, as long as it is reasonable and causes no bodily injury to the child, is an exception to the definition of abuse.¹⁸

The CAPTA amendments of 1996 added new provisions specifying that nothing in the Act be construed as establishing a Federal requirement that a parent or legal guardian provide any medical service or treatment that is against the religious beliefs of the parent or legal guardian (42 U.S.C. § 5106i). At the State level, civil child abuse reporting laws may provide an exception to the definition of child abuse and neglect for parents who choose not to seek medical care for their children due to religious beliefs. Approximately 30 States, the District

¹⁷ Arkansas, Florida, Kansas, Louisiana, New Hampshire, North Dakota, Pennsylvania, Texas, Washington, West Virginia, and Wisconsin.

¹⁸ Arkansas, Colorado, Florida, Georgia, Indiana, Minnesota, Mississippi, Missouri, Ohio, Oklahoma, Oregon, South Carolina, Texas, and Washington.

of Columbia, Puerto Rico, and Guam provide for such an exception.¹⁹ Three States specifically provide an exception for Christian Science treatment.²⁰ However, 16 of the 30 States and Puerto Rico authorize the court to order medical treatment for the child when the child's condition warrants intervention.²¹ Five States require mandated reporters to report instances when a child is not receiving medical care so that an investigation can be made.²²

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

¹⁹ Alabama, Alaska, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, Ohio, Oklahoma, Pennsylvania, Vermont, Virginia, and Wyoming.

²⁰ Arizona, Connecticut, and Washington.

²¹ Alabama, Colorado, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Missouri, Montana, Nevada, Ohio, Oklahoma, and Pennsylvania.

²² Michigan, Minnesota, Missouri, Ohio, and Oklahoma.