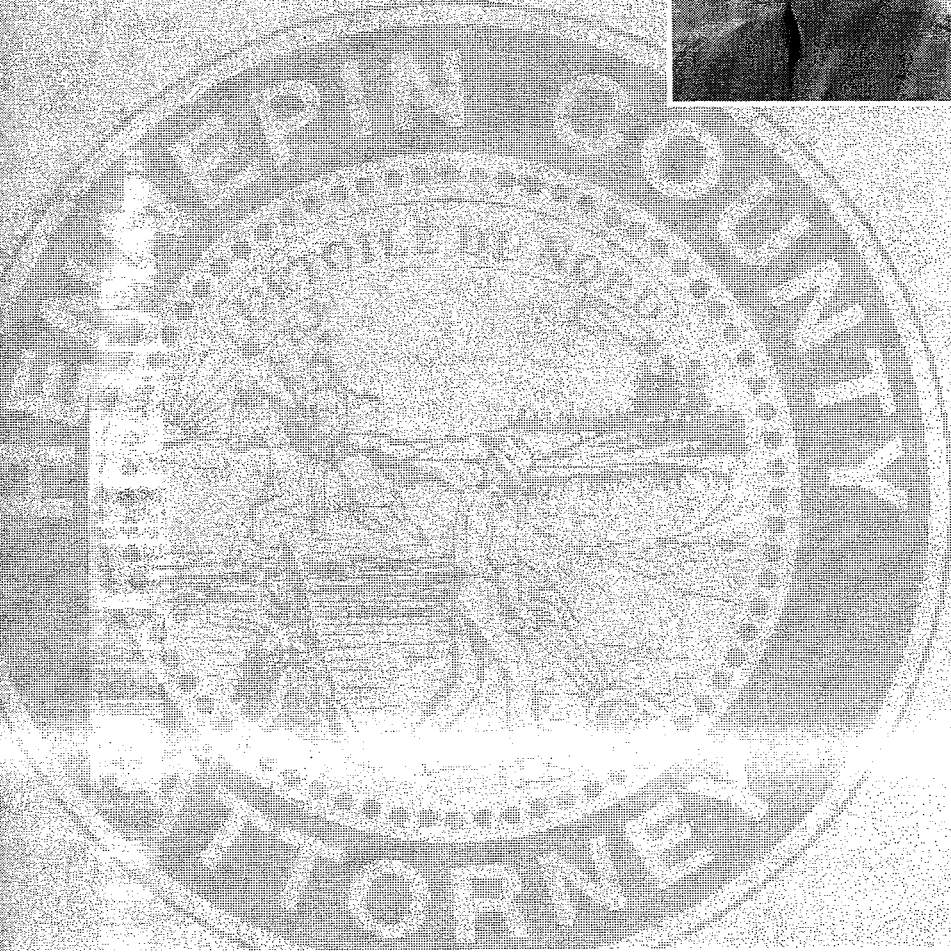


HENNEPIN COUNTY ATTORNEY AMY KLOBUCHAR


KEEPING KIDS IN SCHOOL



*A Parent's Guide to
Educational Neglect*



A
Publication
of the
Hennepin
County
Attorney's
Office



Keeping Kids in School: Tips to Improve School Attendance

- Make your child's education a family priority.
- Tell your children how important their education is to you.
- Insist that your children attend school and do their homework.
- Understand your child's school's attendance policy.
- Make sure your children obey curfew laws and get plenty of sleep at night.
- Buy your child an alarm clock.
- Tell your children that you love them and give them hugs on a regular basis.
- Do not enable your child by calling the school to cover unexcused absences.
- If your child does not want to attend school, find out why. If there is a problem, work together to solve it.
- If your child refuses to go to school, do not be afraid to ask for help. Talk to school staff to find out what resources are available to you.
- Advocate for your child in the school system.

Hennepin County Attorney Amy Klobuchar is committed to working with parents, schools and the community to keep kids in school and prevent educational neglect.

All children deserve a solid education to prepare them for the challenges of today's world. A child who is not in school is at risk. Repeated unexcused absences have consequences to the child and to parents. This brochure has been prepared to help parents understand their legal obligations for their children's education and to provide information about the legal consequences of educational neglect.

Minnesota law recognizes the value of regular school attendance, requiring that all children ages 7 to 18 attend school. Children under the age of 7 who are enrolled in school are also subject to compulsory attendance laws. It is the parents' legal responsibility to enroll their children in school in accordance with the law.

~~For children under the age of 12, parents are also legally responsible to make sure that their children attend school unless they are lawfully excused.~~

It is not uncommon for parents to have questions about when their children can legally miss school. The following are examples of lawful excuses for missing school:

- Illness
- Family emergency
- Funeral
- Religious holiday

The following are examples of absences that are not lawful:

- Parent forgot to wake the child
- Parent did not know school schedule
- Child missed the bus
- Child overslept or was sleepy
- Child didn't feel like going to school

All schools welcome questions about their attendance policy and encourage parents to contact them if they have questions about a particular type of absence.

~~The Consequences for Parents of Educational Neglect~~

State law requires schools to send written notice to parents when a child has missed more than three full days of elementary school, or for three or more class periods on three days if the child is in middle or junior high school. School officials may also request a meeting with the parents to discuss the reasons behind poor school attendance and to find a solution to the problem. The school may also evaluate what problems are contributing to school absences, and may offer appropriate in-school services or a referral to a community agency.

~~When a child under the age of 12 has missed a total of 7 unexcused days in a school year, the school is required to make an educational neglect report to the Hennepin County Children, Family and Adult Services Department. A child protection assessment will then be conducted. The school must show that it has sent the parents written notification of the child's school attendance problem; that it has attempted to discuss with the parents ways to correct the problem; and that it has evaluated the child for social, emotional or physical problems that might be contributing to poor attendance.~~

~~If the child protection assessment results in a finding of educational neglect, the case may be opened for either:~~

- ~~voluntary services to the family, or~~
- ~~referral to the County Attorney's Office for legal action in juvenile court.~~

Legal action can result in court orders directed at the parents and child to ensure regular attendance.



OFFICE OF THE
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April 7, 2003

SB 950: ~~T~~ruancy as Child Abuse & Neglect

Note: HSLDA is posting the following alert from Roy Hanson and Jim Davis of Family Protection Ministries (FPM) for your immediate action. It is being issued in California jointly by FPM and HSLDA. We have worked closely with FPM to develop both the language and the strategy for this alert.

Author:

Senator Richard Alarcon

Summary:

We must blanket the author and the rest of the California State Senate with opposition letters and calls to defeat SB 950 and to prevent the passage of any legislation which would add truancy as a new category of child abuse and neglect. A Child Protective Services (CPS) social worker investigation could start with an unannounced knock at your door. This bill is dangerous because you could ultimately lose custody of your children unless you meet all the conditions CPS and the Juvenile Court dictate, including enrollment in the school of their choice (not yours).

Status:

SB 950 is scheduled to be heard in the California Senate Health & Human Services Committee on Wednesday, April 23, 2003.

Position:

Strongly OPPOSE - amendments cannot help

Requested Action:

None at this time.

Background Information:

SB 950 adds subdivision (k) to Section 300 of the Welfare and Institutions Code, making habitual truancy a new classification of child abuse and neglect. Section 300 specifies conditions under which a "Juvenile Court ... may adjudge [a] child to be a dependent child of the court." The new classification under SB 950, would state that a child could be made a dependent child of the court if "the child comes within the definition of an habitual truant ... as a result of the willful failure of a parent, guardian, or other person having control or charge of the child to ensure that the child attends school as required by law."

No amendments will help solve the problems with this bill.

Reasons to Oppose SB 950:

1. **SB 950 will jeopardize home educators' freedoms.** Section 300 of the Welfare & Institutions Code gives the juvenile court jurisdiction over parents accused of abusing and neglecting their children. SB 950 would add a new subsection defining "habitual truancy" as child abuse and neglect. An habitual truant is a child who is reported to be absent from public school five or more times. Since abuse and neglect are investigated by CPS, public school officials could simply refer a privately homeschooled pupil to CPS on the basis of the child's absence from public school. CPS would be obligated to investigate the referral, making personal contact with the home educating family. Should the CPS social worker think it is illegal for parents to teach their children at home pursuant to the private school exemption, they could file a petition in juvenile court alleging the children are dependents of the court. Should the juvenile court agree, it could take jurisdiction over the child and make decisions regarding the child's education, including terminating the home education program.
2. **SB 950 will discriminate against the poor.** This law would discriminate against poor families who cannot afford an attorney. SB 950 would force many parents into a courtroom situation in which they would need to hire an attorney. In

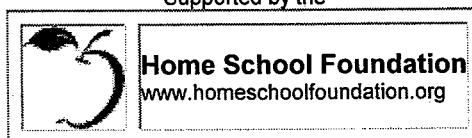
contrast, current law prescribes a system of due-process, which ensures each parent the right and opportunity to have hearings with school officials to work out attendance problems without the necessity of hiring an attorney, going into a court setting, or involving CPS. This current system historically has been protected by bipartisan support in the Legislature.

3. **Current truancy laws are adequate.** The Education Code clearly defines truancy. It provides for due process mechanisms such as school attendance review boards (SARB) and truancy mediation programs to deal with both parents and truant minors. Current law in California specifies sanctions, without CPS involvement, for both parents and minors who do not comply with compulsory education laws. Provisions in the Education Code, Welfare and Institutions Code, Vehicle Code, and Penal Code are more than adequate in stipulating procedural remedies and penalties for truants and their parents.
4. **SB 950 will increase the workload on Child Protective Services (CPS).** Under SB 950, lack of enrollment or attendance can be treated as equivalent to physical abuse; sexual abuse; lack of food, clothing, or medical treatment; etc. Children alleged to be "habitually truant" could be reported to CPS. Many innocent parents, including those with children enrolled in education programs other than traditional 9-month public schools, will be swept into the CPS system. CPS, with their limited resources, is already overworked with reports of abuse and neglect without adding "habitual truancy." CPS in Sacramento County alone already receives 4,000 calls per month. Currently 50-60% of cases alleging abuse or neglect prove to be false. How many more families will CPS have to investigate under SB 950? How many truly abused children will be at risk unnecessarily because of stretching the overburdened CPS system too far?

Family Protection Ministries (FPM) is coordinating work at the capitol in Sacramento through meetings with legislators and other parties, and testifying in committee hearings. We are providing written testimony to all of the committee members. We ask our members to coordinate all verbal testimony at any hearing through Roy and Jim by calling them at 916-786-3523. This is necessary to ensure that adequate time is available for testimony from key witnesses. FPM will be at any and all hearings on this bill as they routinely testify on any legislation that might be of concern to the private homeschool community. We and FPM jointly continue to monitor this and all other legislation of significance to private homeschoolers in California.

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Child Abuse and Neglect State Statutes Series

Compendium of Laws

Reporting Laws: Definitions of Child Abuse and Neglect



U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau

2002

MINNESOTA

DEFINITIONS

Minn. Stat. Ann. § 260C.007 Subd. 4-6, 10, 13-15, 17, 20-21, 24-25, 27 (West, WESTLAW through End of 2001 1st Sp. Sess.)*

“Child” means an individual under 18 years of age.

“Child in need of protection or services” means a child who is in need of protection or services because the child:

- Is abandoned or without parent, guardian, or custodian;
- Has been a victim of physical or sexual abuse; resides with or has resided with a victim of domestic child abuse; resides with or would reside with a perpetrator of domestic child abuse or child abuse; or is a victim of emotional maltreatment;
- Is without necessary food, clothing, shelter, education, or other required care for the child’s physical or mental health or morals because the child’s parent, guardian, or custodian is unable or unwilling to provide that care;
- Is without special care made necessary by a physical, mental, or emotional condition because the child’s parent, guardian, or custodian is unable or unwilling to provide that care, including a child in voluntary placement due solely to the child’s developmental disability or emotional disturbance;
- Is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term “withholding of medically indicated treatment” means the failure to respond to the infant’s life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician’s or physicians’ reasonable medical judgment:
 - The infant is chronically and irreversibly comatose;
 - The provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all the infant’s life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or
 - The provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;
- Is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child’s care and custody, including a child in placement according to voluntary release by the parent under section 260C.212, subdivision 8;
- Has been placed for adoption or care in violation of law;
- Is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child’s parent, guardian, or other custodian;

* Many of these provisions are also found in the Minnesota Indian Family Preservation Act, § 260B.007.

Definitions of Child Abuse and Neglect

- Is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;
- Is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;
- Has engaged in prostitution as defined by statute;
- Has committed a delinquent act or a juvenile petty offense before becoming ten years old;
- Is a runaway;
- Is a habitual truant;
- Has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense; or
- Has been found by the court to have committed domestic abuse perpetrated by a minor, has been ordered excluded from the child's parent's home by an order for protection/minor respondent, and the parent or guardian is either unwilling or unable to provide an alternative safe living arrangement for the child.

“Emotional maltreatment” means the consistent, deliberate infliction of mental harm on a child by a person responsible for the child's care, that has an observable, sustained, and adverse effect on the child's physical, mental, or emotional development.

“Parent” means the birth or adoptive parent of a minor. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided by statute.

“Relative” means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978.

“Custodian” means any person who is under a legal obligation to provide care and support for a minor or who is in fact providing care and support for a minor. This subdivision does not impose upon persons who are not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care a duty to provide that care. For an Indian child, custodian means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of the child, as provided by statute.

“Neglected and in foster care” means a child:

- Who has been placed in foster care by court order; and
- Whose parents' circumstances, condition, or conduct are such that the child cannot be returned to them; and

EXCEPTIONS

N.M. Stat. Ann. § 32A-4-2(E)(5) (Michie, WESTLAW through 1999 1st Reg. Sess. & Spec. Sess.)

Nothing in the Children's Code shall be construed to imply that a child who is being provided with **treatment by spiritual means alone through prayer**, in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof, is for that reason alone a neglected child. No child shall be denied the protection afforded to all children under the Children's Code.

NEW YORK

DEFINITIONS

N.Y. Soc. Serv. Law § 412(1), (2), (4)-(12) (McKinney 1992)

When used in this title and unless the specific context indicates otherwise,

"Abused child" means:

- A child under 18 years of age defined as an abused child by the family court act;
- A child under the age of 18 years who is defined as an abused child in residential care pursuant to this section; or
- A child with a handicapping condition, as defined by the education law, who is 18 years of age or older, is in residential care in a school or facility described in section, and is defined as an abused child pursuant to this section; provided that such term shall include a pupil with a handicapping condition in residential care in such a school or facility who is defined as an abused child pursuant to this section, is 21 years of age and is entitled, pursuant to the education law, to remain in such school or facility until either the termination of the school year or the termination of the summer program as applicable.

"Maltreated child" includes:

- A child under 18 years of age not in "residential care" as defined in this section:
 - Defined as a neglected child by the family court act; or
 - Who has had serious physical injury inflicted upon him by other than an accidental means;or
- A child in residential care as defined in this section who is:
 - Under 18 years of age, except that a child with a handicapping condition, as defined in the education law, who is 18 years of age or older, is in residential care in a school or facility described in this section, provided that such term shall include a pupil with a handicapping condition in residential care in such a school or facility who is 21 years of age, and is entitled, pursuant to education law, to remain in such school or facility until either the termination of the school year or the termination of the summer program, as applicable; and
 - Is a neglected child in residential care as defined in this section.

“Subject of the report” means:

- Any parent of, guardian of, custodian of or other person 18 years of age or older legally responsible for, as defined the family court act;
- A child reported to the central register of child abuse and maltreatment who is allegedly responsible for causing injury, abuse, or maltreatment to such child or who allegedly allows such injury, abuse or maltreatment to be inflicted on such child; or
- A director or an operator of or employee or volunteer in a home operated or supervised by an authorized agency, the division for youth; or
- An office of the department of mental hygiene or in a family day-care home, a day-care center, a group family day-care home or a day-services program; or
- A consultant or any person who is an employee or volunteer of a corporation, partnership, organization or any governmental entity which provides goods or services pursuant to a contract or other arrangement which provides for such consultant or person to have regular and substantial contact with children in residential care who is allegedly responsible for causing injury, abuse or maltreatment to a child who is reported to the central register of child abuse or maltreatment or who allegedly allows such injury, abuse or maltreatment to be inflicted on such child.

“Other persons named in the report” shall mean and be limited to the following persons who are named in a report of child abuse or maltreatment other than the subject of the report:

- The child who is reported to the central register of child abuse and maltreatment; and
- Such child’s parent, guardian, custodian or other person legally responsible for the child who have not been named in the report as allegedly responsible for causing injury, abuse or maltreatment to the child or as allegedly allowing such injury, abuse or maltreatment to be inflicted on such child;
- In the case of a report involving abuse or maltreatment of a child in residential care, such term shall be deemed to include the child’s parent, guardian or other person legally responsible for the child who is not named in such report.

“Custodian” means a director, operator, employee or volunteer of a residential care facility or program.

“Residential care” means:

- Care provided to a child who has been placed by the family court with a social services official or the State division for youth, or whose care and custody or custody and guardianship has been transferred or committed to, a social services official, another authorized agency, or the State division for youth and such care is provided in an agency operated boarding home, a group home or child care institution;
- Care provided a child in a facility or program operated or certified by the State division for youth, excluding foster-family care;
- ~~Care provided a child in the New York State school for the blind or the New York State school for the deaf;~~

Definitions of Child Abuse and Neglect

- Care provided a child in a private residential school which is within the State and which has been approved by the Commissioner of Education for special education services or programs;
- Care provided in institutions for the instruction of the deaf and the blind which have a residential component, and which are subject to the visitation of the Commissioner of Education;
- Care provided through a residential placement of a child with a special act school district; or
- Care provided a child in a residential facility licensed or operated by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities, excluding family care homes;
- Care provided by an authorized agency licensed to provide both care enumerated in this subdivision and care provided a child in a residential facility licensed or operated by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities, excluding family care homes.

“Abused child in residential care” means a child whose custodian:

- Inflicts any injury upon such child by other than accidental means which causes death, serious or protracted disfigurement, serious or protracted impairment of physical health, serious or protracted loss or impairment of the function of any organ, or a serious emotional injury; or
- By their conduct and with knowledge or deliberate indifference allows any such injury to be inflicted upon such child; or
- Creates a substantial risk of any injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, protracted impairment of physical health, protracted loss or impairment of the function of any organ, or a serious emotional injury; or
- By his or her conduct and with knowledge or deliberate indifference creates a substantial risk of such injury to such child; or
- Commits, promotes or knowingly permits the commission of a sex offense against such child, as described in article one hundred thirty of the penal law; allows, permits or encourages such child to engage in any act described in article two hundred thirty of the penal law; commits any of the acts described in section 255.25 of the penal law; or allows or promotes or uses such child to engage in acts or conduct described in article two hundred sixty- three of the penal law, provided, however, that
 - The corroboration requirements in the penal law and
 - The age requirements for the application of articles one hundred thirty, two hundred thirty and two hundred sixty-three of such law and any age based element of any crime described therein shall not apply to the provisions of this title; or
- Fails to comply with a rule or regulation involving care, services or supervision of a child promulgated by a state agency operating, certifying or supervising a residential facility or program, and such failure to comply results in death, serious or protracted disfigurement, serious or protracted impairment of physical health, or serious or protracted loss or impairment of the function of any organ where such result was reasonably foreseeable.

“Neglected child in residential care” means a child whose custodian:

- Inflicts by act or omission physical injury, excluding minor injury, to such child by other than accidental means; or
- Creates a substantial risk of physical injury, excluding minor injury, to such child by other than accidental means; or
- Fails to comply with a rule or regulation involving care, services or supervision of a child promulgated by a state agency operating, certifying, or supervising a residential facility or program, and such failure to comply results in physical injury, excluding minor injury, or serious emotional injury to such child where such result was reasonably foreseeable; or
- Fails to meet a personal duty imposed by an agreed upon plan of prevention and remediation pursuant to this chapter or the mental hygiene law, the executive law or the education law, arising from abuse or neglect of a child in residential care and such failure results in physical injury, excluding minor injury, or serious emotional injury or the risk thereof to the child; or
- Intentionally administers to the child any prescription drug other than in substantial compliance with a physician’s, physician’s assistant’s or nurse practitioner’s prescription.

“Institutionally neglected child in residential care” means a child whose health, safety or welfare is harmed or placed in imminent danger of harm as a result of a lack of compliance with applicable standards of the state agency operating, certifying or supervising such facility or program for the care and treatment of such child or an agreed upon plan of prevention and remediation pursuant to this chapter or the mental hygiene law, the executive law or the education law, arising from abuse or neglect of a child in residential care, including, but not limited to, the provision of supervision, food, clothing, shelter, education, medical, dental, optometric or surgical care.

“Unfounded report” means any report made pursuant to this title unless an investigation determines that some credible evidence of the alleged abuse or maltreatment exists;

“Indicated report” means a report made pursuant to this title if an investigation determines that some credible evidence of the alleged abuse or maltreatment exists.

N. Y. Family Court Law § 1012(e)-(h), (j) (West, WESTLAW through 1999, Ch. 7)

“Abused child” means a child less than 18 years of age whose parent or other person legally responsible for his care:

- Inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; or
- Creates or allows to be created a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; or

Definitions of Child Abuse and Neglect

- Commits, or allows to be committed, a sex offense against such child, as defined in the penal law; allows, permits or encourages such child to engage in any act described in sections 230.25, 230.30 and 230.32 of the penal law; commits any of the acts described in section 255.25 of the penal law; or allows such child to engage in acts or conduct described in article 263 of the penal law provided, however, that (a) the corroboration requirements contained in the penal law and (b) the age requirement for the application of article 263 of such law shall not apply to proceedings under this article.

“Neglected child” means a child less than 18 years of age:

- Whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care
 - In supplying the child with adequate food, clothing, shelter or education in accordance with the education law, or medical, dental, optometrical or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or
 - In providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child’s physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired; or
- Who has been abandoned, in accordance with the definition and other criteria set forth in the social services law, by his parents or other person legally responsible for his care.

“Person legally responsible” includes the child’s custodian, guardian, any other person responsible for the child’s care at the relevant time. Custodian may include any person continually or at regular intervals found in the same household as the child when the conduct of such person causes or contributes to the abuse or neglect of the child.

“Impairment of emotional health” and **“impairment of mental or emotional condition”** includes a state of substantially diminished psychological or intellectual functioning in relation to, but not limited to, such factors as failure to thrive, control of aggressive or self-destructive impulses, ability to think and reason, or acting out or misbehavior, including incorrigibility, ungovernability or habitual truancy; provided, however, that such impairment must be clearly attributable to the unwillingness or inability of the respondent to exercise a minimum degree of care toward the child.

“Aggravated circumstances” means where a child has been either severely or repeatedly abused, as defined in subdivision eight of section three hundred eighty-four-b of the social services law.

Definitions of Child Abuse and Neglect

If, upon investigation:

- The county agency determines that a child has not been provided needed medical or surgical care because of seriously held **religious beliefs** of the child's parents, guardian or person responsible for the child's welfare;
- Which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused.

The county agency shall closely monitor the child and shall seek court-ordered medical intervention when the lack of medical or surgical care threatens the child's life or long-term health.

In cases involving religious circumstances, all correspondence with a subject of the report and the records of the Department of Public Welfare and the county agency shall not reference "child abuse" and shall acknowledge the religious basis for the child's condition, and the family shall be referred for general protective services, if appropriate.

RHODE ISLAND

DEFINITIONS

R.I. Gen. Laws § 40-11-2 (Lexis, WESTLAW through End of 2000 Reg. Sess.)

"Abused and/or neglected child" means a child whose physical or mental health or welfare is harmed or threatened with harm when his or her parent or other person responsible for his or her welfare:

- Inflicts, or allows to be inflicted upon the child physical or mental injury, including excessive corporal punishment; or
- Creates or allows to be created a substantial risk of physical or mental injury to the child, including excessive corporal punishment; or
- Commits or allows to be committed, against the child, an act of sexual abuse; or
- Fails to supply the child with adequate food, clothing, shelter, or medical care, though financially able to do so or offered financial or other reasonable means to do so; or
- Fails to provide the child with a minimum degree of care or proper supervision or guardianship because of his or her unwillingness or inability to do so by situations or conditions such as, but not limited to, social problems, mental incompetency, or the use of a drug, drugs, or alcohol to the extent that the parent or other person responsible for the child's welfare loses his or her ability or is unwilling to properly care for the child; or
- Abandons or deserts the child; or
- Sexually exploits the child in that the person allows, permits or encourages the child to engage in prostitution as defined by the statutes; or

Definitions of Child Abuse and Neglect

- Sexually exploits the child in that the person allows, permits, encourages or engages in the obscene or pornographic photographing, filming or depiction of the child in a setting which taken as a whole suggests to the average person that the child is about to engage in or has engaged in, any sexual act, or which depicts any such child under 18 years of age, performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality; or
- Commits or allows to be committed any sexual offense against the child as such sexual offenses are defined by statute; or
- Commits or allows to be committed against any child an act involving sexual penetration or sexual contact if the child is under 15 years of age; or if the child is 15 years or older, and (1) force or coercion is used by the perpetrator, or (2) the perpetrator knows or has reason to know that the victim is a severely impaired person, or physically helpless.

“Child” means a person under the age of 18.

“Child protective investigator” means an employee of the Department charged with responsibility for investigating complaints and/or referrals of child abuse and/or neglect and institutional child abuse and/or neglect.

“Department” means Department of Children, Youth, and Families.

“Institution” means any private or public hospital or other facility providing medical and/or psychiatric diagnosis, treatment, and care.

“Institutional child abuse and neglect” means situations of known or suspected child abuse or neglect where the person allegedly responsible for the abuse or neglect is a foster parent or the employee of a public or private residential child care institution or agency; or any staff person providing out-of-home care or situations where the suspected abuse or neglect occurs as a result of the institution’s practices, policies, or conditions.

“Law enforcement agency” means the police department in any city or town and/or the State police.

“Mental injury” includes a state of substantially diminished psychological or intellectual functioning in relation to, but not limited to, such factors as: failure to thrive; ability to think or reason; control of aggressive or self-destructive impulses; acting-out or misbehavior, including incorrigibility, ungovernability, or habitual truancy; provided, however, that the injury must be clearly attributable to the unwillingness or inability of the parent or other person responsible for the child’s welfare to exercise a minimum degree of care toward the child.

“Person responsible for child’s welfare” means the child’s parent, guardian, foster parent, an employee of a public or private residential home or facility, or any staff person providing out-of-home care (out-of-home care means child day care to include family day care, group day care, and center-based day care).

“Physician” means any licensed doctor of medicine, licensed osteopathic physician, and any physician, intern, or resident of an institution as defined above.