

1 intentionally inflicts, attempts to inflict or knowingly allows
2 another person to inflict, physical injury or mental or emotional
3 injury, upon the child or another child in the home; or

4 (B) Sexual abuse or sexual exploitation; or

5 (C) The sale or attempted sale of a child by a parent,
6 guardian or custodian in violation of section sixteen, article
7 four, chapter forty-eight of this code; or

8 (D) Domestic violence as defined in section two hundred two,
9 article twenty-seven, chapter forty-eight of this code.

10 In addition to its broader meaning, physical injury may
11 include an injury to the child as a result of excessive corporal
12 punishment.

13 (2) "Abusing parent" means a parent, guardian or other
14 custodian, regardless of his or her age, whose conduct, as alleged
15 in the petition charging child abuse or neglect, has been adjudged
16 by the court to constitute child abuse or neglect.

17 (3) "Battered parent" means a parent, guardian or other
18 custodian who has been judicially determined not to have condoned
19 the abuse or neglect and has not been able to stop the abuse or
20 neglect of the child or children due to being the victim of
21 domestic violence as defined by section two hundred two, article
22 twenty-seven, chapter forty-eight of this code, which domestic
23 violence was perpetrated by the person or persons determined to
24 have abused or neglected the child or children.

1 (4) "Child abuse and neglect" or "child abuse or neglect"
2 means physical injury, mental or emotional injury, sexual abuse,
3 sexual exploitation, sale or attempted sale or negligent treatment
4 or maltreatment of a child by a parent, guardian or custodian who
5 is responsible for the child's welfare, under circumstances which
6 harm or threaten the health and welfare of the child.

7 (5) "Child abuse and neglect services" means social services
8 which are directed toward:

9 (A) Protecting and promoting the welfare of children who are
10 abused or neglected;

11 (B) Identifying, preventing and remedying conditions which
12 cause child abuse and neglect;

13 (C) Preventing the unnecessary removal of children from their
14 families by identifying family problems and assisting families in
15 resolving problems which could lead to a removal of children and a
16 breakup of the family;

17 (D) In cases where children have been removed from their
18 families, providing services to the children and the families so as
19 to reunify such children with their families or some portion
20 thereof;

21 (E) Placing children in suitable adoptive homes when
22 reunifying the children with their families, or some portion
23 thereof, is not possible or appropriate; and

24 (F) Assuring the adequate care of children who have been

1 placed in the custody of the department or third parties.

2 (6) "Child advocacy center" means a community-based
3 organization that is a member in good standing with the West
4 Virginia Child Abuse Network, Inc., and is working to implement the
5 following program components:

6 (A) Child-appropriate/child-friendly facility: A child
7 advocacy center provides a comfortable, private, child-friendly
8 setting that is both physically and psychologically safe for
9 clients.

10 (B) Multidisciplinary team (MDT): A multidisciplinary team
11 for response to child abuse allegations includes representation
12 ~~from the following:~~ law enforcement, child protective services,
13 prosecution, mental health, medical, victim advocacy and a child
14 advocacy center.

15 (C) Organizational capacity: A designated legal entity
16 responsible for program and fiscal operations has been established
17 and implements basic sound administrative practices.

18 (D) Cultural competency and diversity: The CAC promotes
19 policies, practices and procedures that are culturally competent.
20 Cultural competency is defined as the capacity to function in more
21 than one culture, requiring the ability to appreciate, understand
22 and interact with members of diverse populations within the local
23 community.

24 (E) Forensic interviews: Forensic interviews are conducted in

1 a manner which is of a neutral, fact finding nature and coordinated
2 to avoid duplicative interviewing.

3 (F) Medical evaluation: Specialized medical evaluation and
4 treatment are to be made available to CAC clients as part of the
5 team response either at the CAC or through coordination and
6 referral with other specialized medical providers.

7 (G) Therapeutic intervention: Specialized mental health
8 services are to be made available as part of the team response
9 either at the CAC or through coordination and referral with other
10 appropriate treatment providers.

11 (H) Victim support/advocacy: Victim support and advocacy are
12 to be made available as part of the team response either at the CAC
13 or through coordination with other providers throughout the
14 investigation and subsequent legal proceedings.

15 (I) Case review: Team discussion and information sharing
16 regarding the investigation, case status and services needed by the
17 child and family are to occur on a routine basis.

18 (J) Case tracking: CACs must develop and implement a system
19 for monitoring case progress and tracking case outcomes for team
20 components. ~~Provided, That~~ A child advocacy center may establish a
21 safe exchange location for children and families who have a
22 parenting agreement or an order providing for visitation or custody
23 of the children that require a safe exchange location.

24 (7) "Imminent danger to the physical well-being of the child"

1 means an emergency situation in which the welfare or the life of
2 the child is threatened. Such emergency situation exists when there
3 is reasonable cause to believe that any child in the home is or has
4 been sexually abused or sexually exploited or reasonable cause to
5 believe that the following conditions threaten the health or life
6 of any child in the home:

7 (A) Nonaccidental trauma inflicted by a parent, guardian,
8 custodian, sibling or a babysitter or other caretaker;

9 (B) A combination of physical and other signs indicating a
10 pattern of abuse which may be medically diagnosed as battered child
11 syndrome;

12 (C) Nutritional deprivation;

13 (D) Abandonment by the parent, guardian or custodian;

14 (E) Inadequate treatment of serious illness or disease;

15 (F) Substantial emotional injury inflicted by a parent,
16 guardian or custodian;

17 (G) Sale or attempted sale of the child by the parent,
18 guardian or custodian; or

19 (H) The parent, guardian or custodian's abuse of alcohol or
20 drugs or other controlled substance, as defined in section one
21 hundred one, article one, chapter sixty-a of this code, has
22 impaired his or her parenting skills to a degree as to pose an
23 imminent risk to a child's health or safety.

24 (8) "Legal guardianship" means the permanent relationship

1 between a child and caretaker, established by order of the circuit
2 court having jurisdiction over the child, pursuant to the
3 provisions of this chapter and chapter forty-eight of this code.

4 (9) "Multidisciplinary team" means a group of professionals
5 and paraprofessionals representing a variety of disciplines who
6 interact and coordinate their efforts to identify, diagnose and
7 treat specific cases of child abuse and neglect. Multidisciplinary
8 teams may include, but are not limited to, medical, educational,
9 child care and law-enforcement personnel, social workers,
10 psychologists and psychiatrists. Their goal is to pool their
11 respective skills in order to formulate accurate diagnoses and to
12 provide comprehensive coordinated treatment with continuity and
13 follow-up for both parents and children. "Community team" means a
14 multidisciplinary group which addresses the general problem of
15 child abuse and neglect in a given community and may consist of
16 several multidisciplinary teams with different functions.

17 (10) (A) "Neglected child" means a child:

18 (i) Whose physical or mental health is harmed or threatened by
19 a present refusal, failure or inability of the child's parent,
20 guardian or custodian to supply the child with necessary food,
21 clothing, shelter, supervision, medical care or education, when
22 such refusal, failure or inability is not due primarily to a lack
23 of financial means on the part of the parent, guardian or
24 custodian; ~~or~~

1 (ii) Who is presently without necessary food, clothing,
2 shelter, medical care, education or supervision because of the
3 disappearance or absence of the child's parent or custodian; or

4 (iii) Who is otherwise physically healthy and presumed safe
5 but is habitually absent from school without good cause.

6 (B) "Neglected child" does not mean a child whose education is
7 conducted within the provisions of section one, article eight,
8 chapter eighteen of this code.

9 (11) "Parent" means an individual defined as a parent by law
10 or on the basis of a biological relationship, marriage to a person
11 with a biological relationship, legal adoption or other recognized
12 grounds.

13 (12) "Parental rights" means any and all rights and duties
14 regarding a parent to a minor child including, but not limited to,
15 custodial rights, ~~and visitational~~ visitation rights and rights to
16 participate in the decisions affecting a minor child.

17 (13) "Parenting skills" means a parent's competencies in
18 providing physical care, protection, supervision and psychological
19 support appropriate to a child's age and state of development.

20 (14) "Sexual abuse" means:

21 (A) As to a child who is less than sixteen years of age, any
22 of the following acts which a parent, guardian or custodian shall
23 engage in, attempt to engage in, or knowingly procure another
24 person to engage in, with such child, notwithstanding the fact that

1 the child may have willingly participated in such conduct or the
2 fact that the child may have suffered no apparent physical injury
3 or mental or emotional injury as a result of such conduct:

4 (i) Sexual intercourse;

5 (ii) Sexual intrusion; or

6 (iii) Sexual contact;

7 (B) As to a child who is sixteen years of age or older, any of
8 the following acts which a parent, guardian or custodian shall
9 engage in, attempt to engage in, or knowingly procure another
10 person to engage in, with such child, notwithstanding the fact that
11 the child may have consented to such conduct or the fact that the
12 child may have suffered no apparent physical injury or mental or
13 emotional injury as a result of such conduct:

14 (i) Sexual intercourse;

15 (ii) Sexual intrusion; or

16 (iii) Sexual contact.

17 (C) Any conduct whereby a parent, guardian or custodian
18 displays his or her sex organs to a child, or procures another
19 person to display his or her sex organs to a child, for the purpose
20 of gratifying the sexual desire of the parent, guardian or
21 custodian, of the person making such display, or of the child, or
22 for the purpose of affronting or alarming the child.

23 (15) "Sexual contact" means sexual contact as that term is
24 defined in section one, article eight-b, chapter sixty-one of this

1 code.

2 (16) "Sexual exploitation" means an act whereby:

3 (A) A parent, custodian or guardian, whether for financial
4 gain or not, persuades, induces, entices or coerces a child to
5 engage in sexually explicit conduct as that term is defined in
6 section one, article eight-c, chapter sixty-one of this code; or

7 (B) A parent, guardian or custodian persuades, induces,
8 entices or coerces a child to display his or her sex organs for the
9 sexual gratification of the parent, guardian, custodian or a third
10 person, or to display his or her sex organs under circumstances in
11 which the parent, guardian or custodian knows such display is
12 likely to be observed by others who would be affronted or alarmed.

13 (17) "Sexual intercourse" means sexual intercourse as that
14 term is defined in section one, article eight-b, chapter sixty-one
15 of this code.

16 (18) "Sexual intrusion" means sexual intrusion as that term is
17 defined in section one, article eight-b, chapter sixty-one of this
18 code.

19 (19) "Placement" means any temporary or permanent placement of
20 a child who is in the custody of the state in any foster home,
21 group home or other facility or residence.

22 (20) "Serious physical abuse" means bodily injury which
23 creates a substantial risk of death, which causes serious or
24 prolonged disfigurement, prolonged impairment of health or

1 prolonged loss or impairment of the function of any bodily organ.

2 (21) "Siblings" means children who have at least one
3 biological parent in common or who have been legally adopted by the
4 same parents or parent.

5 (22) "Time-limited reunification services" means individual,
6 group and family counseling, inpatient, residential or outpatient
7 substance abuse treatment services, mental health services,
8 assistance to address domestic violence, services designed to
9 provide temporary child care and therapeutic services for families,
10 including crisis nurseries and transportation to or from any such
11 services, provided during fifteen of the most recent twenty-two
12 months a child has been in foster care, as determined by the
13 earlier date of the first judicial finding that the child is
14 subjected to abuse or neglect, or the date which is sixty days
15 after the child is removed from home.

NOTE: The purpose of this bill is to provide that a child who is physically healthy and presumed safe is a neglected child if he or she is habitually absent from school without good cause.

Strike-throughs indicate language that would be stricken from the current law and underscoring indicates language that would be added.