

1 injury, upon the child or another child in the home;

2 (B) Sexual abuse or sexual exploitation;

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

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

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

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

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

23 (4) "Child abuse and neglect" or "child abuse or neglect"
24 means physical injury, mental or emotional injury, sexual abuse,

1 sexual exploitation, sale or attempted sale or negligent treatment
2 or maltreatment of a child by a parent, guardian or custodian who
3 is responsible for the child's welfare, under circumstances which
4 harm or threaten the health and welfare of the child.

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

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

9 (B) Identifying, preventing and remedying conditions which
10 cause child abuse and neglect;

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

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

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

21 (F) Assuring the adequate care of children who have been
22 placed in the custody of the department or third parties.

23 (6) "Child advocacy center (CAC)" means a community-based
24 organization that is a member in good standing with the West

1 Virginia Child Abuse Network, Inc., and is working to implement the
2 following program components:

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

6 (B) Multidisciplinary team (MDT): A multidisciplinary team for
7 response to child abuse allegations includes representation from
8 the following: Law enforcement; child protective services;
9 prosecution; mental health; medical; victim advocacy; child
10 advocacy center.

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

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

20 (E) Forensic interviews: Forensic interviews are conducted in
21 a manner which is of a neutral, fact-finding nature and coordinated
22 to avoid duplicative interviewing.

23 (F) Medical evaluation: Specialized medical evaluation and
24 treatment are to be made available to CAC clients as part of the

1 team response, either at the CAC or through coordination and
2 referral with other specialized medical providers.

3 (G) Therapeutic intervention: Specialized mental health
4 services are to be made available as part of the team response,
5 either at the CAC or through coordination and referral with other
6 appropriate treatment providers.

7 (H) Victim support/advocacy: Victim support and advocacy are
8 to be made available as part of the team response, either at the
9 CAC or through coordination with other providers, throughout the
10 investigation and subsequent legal proceedings.

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

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

20 (7) "Court appointed special advocate (CASA) program" means a
21 community organization that screens, trains and supervises CASA
22 volunteers to advocate for the best interests of children who are
23 involved in abuse and neglect proceedings. Court appointed special
24 advocate programs will be operated under the following guidelines:

1 (A) Standards: CASA programs shall be members in good standing
2 with the West Virginia Court Appointed Special Advocate
3 Association, Inc., and the National Court Appointed Special
4 Advocates Association and adhere to all standards set forth by
5 these entities.

6 (B) Organizational capacity: A designated legal entity
7 responsible for program and fiscal operations has been established
8 and implements basic sound administrative practice.

9 (C) Cultural competency and diversity: CASA programs promote
10 policies, practices and procedures that are culturally competent.
11 "Cultural competency" is defined as the capacity to function in
12 more than one culture, requiring the ability to appreciate,
13 understand and interact with members of diverse populations within
14 the local community.

15 (D) Case management: CASA programs must utilize a uniform case
16 management system to monitor case progress and track outcomes.

17 (E) Case review: CASA volunteers meet with CASA staff on a
18 routine basis to discuss case status and outcomes.

19 (F) Training: Court appointed special advocates shall serve as
20 volunteers without compensation and shall receive training
21 consistent with state and nationally developed standards.

22 (8) "Imminent danger to the physical well being of the child"
23 means an emergency situation in which the welfare or the life of
24 the child is threatened. Such emergency situation exists when there

1 is reasonable cause to believe that any child in the home is or has
2 been sexually abused or sexually exploited, or reasonable cause to
3 believe that the following conditions threaten the health or life
4 of any child in the home:

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

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

10 (C) Nutritional deprivation;

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

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

13 (F) Substantial emotional injury inflicted by a parent,
14 guardian or custodian;

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

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

22 (9) "Legal guardianship" means the permanent relationship
23 between a child and caretaker, established by order of the circuit
24 court having jurisdiction over the child, pursuant to the

1 provisions of this chapter and chapter forty-eight of this code.

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

15 (11) (A) "Neglected child" means a child:

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

23 (ii) Who is presently without necessary food, clothing,
24 shelter, medical care, education or supervision because of the

1 disappearance or absence of the child's parent or custodian; or
2 (iii) Who is otherwise physically healthy and presumed safe
3 but is habitually absent from school without good cause. Provided,
4 That this subparagraph (iii) does not apply to the parents of any
5 child who is educated pursuant to the home instruction exemption
6 from the compulsory school attendance requirements set forth in
7 section one, article eight, chapter eighteen of this code.

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

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

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

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

22 (15) "Sexual abuse" means:

23 (A) As to a child who is less than sixteen years of age, any
24 of the following acts which a parent, guardian or custodian shall

1 engage in, attempt to engage in or knowingly procure another person
2 to engage in, with such child, notwithstanding the fact that the
3 child may have willingly participated in such conduct or the fact
4 that the child may have suffered no apparent physical injury or
5 mental or emotional injury as a result of such conduct:

6 (i) Sexual intercourse;

7 (ii) Sexual intrusion; or

8 (iii) Sexual contact;

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

16 (i) Sexual intercourse;

17 (ii) Sexual intrusion; or

18 (iii) Sexual contact;

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

1 (16) "Sexual contact" means sexual contact as that term is
2 defined in section one, article eight-b, chapter sixty-one of this
3 code.

4 (17) "Sexual exploitation" means an act whereby:

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

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

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

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

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

24 (21) "Serious physical abuse" means bodily injury which

1 creates a substantial risk of death, which causes serious or
2 prolonged disfigurement, prolonged impairment of health or
3 prolonged loss or impairment of the function of any bodily organ.

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

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

NOTE: The purpose of this bill is to clarify 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. This bill provides an exemption for parents whose children are receiving home instruction.

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