

**260C.007 DEFINITIONS.**

Subdivision 1. **Scope.** As used in this chapter, the terms defined in this section have the same meanings given to them.

Subd. 2. **Agency.** "Agency" means the responsible social services agency or a licensed child-placing agency.

Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child and parent or guardian, or, when reunification is not required, the child alone, that is developed according to the requirements of section 245.4871, subdivision 19 or 21; 245.492, subdivision 16; 256B.092; 260C.212, subdivision 1; or 626.556, subdivision 10.

Subd. 4. **Child.** "Child" means an individual under 18 years of age. For purposes of this chapter, child also includes individuals under age 21 who are in foster care pursuant to section 260C.451.

Subd. 5. **Child abuse.** "Child abuse" means an act that involves a minor victim that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322, 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, 617.246, or that is physical or sexual abuse as defined in section 626.556, subdivision 2, or an act committed in another state that involves a minor victim and would constitute a violation of one of these sections if committed in this state.

Subd. 6. **Child in need of protection or services.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse as defined in section 626.556, subdivision 2, (ii) resides with or has resided with a victim of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined in subdivision 5 or 13, or (iv) is a victim of emotional maltreatment as defined in subdivision 15;

(3) 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;

(4) is without the 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;

(5) 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:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) 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;

(6) 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 who entered foster care under a voluntary placement agreement between the parent and the responsible social services agency under section 260C.212, subdivision 8;

(7) has been placed for adoption or care in violation of law;

(8) 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;

(9) 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;

(10) 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;

(11) has engaged in prostitution as defined in section 609.321, subdivision 9;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is a habitual truant;

(15) 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

(16) has a parent whose parental rights to one or more other children were involuntarily terminated or whose custodial rights to another child have been involuntarily transferred to a relative and there is a case plan prepared by the responsible social services agency documenting a compelling reason why filing the termination of parental rights petition under section 260C.301, subdivision 3, is not in the best interests of the child.

**Subd. 7. Child-placing agency.** "Child-placing agency" means anyone licensed under sections 245A.01 to 245A.16 and 252.28, subdivision 2.

**Subd. 8. Compelling reasons.** "Compelling reasons" means an individualized determination by the responsible social services agency, which is approved by the court, related to a request by the agency not to initiate proceedings to terminate parental rights or transfer permanent legal and physical custody of a child to the child's relative or former noncustodial parent under section 260C.301, subdivision 3.

**Subd. 9. Court.** "Court" means juvenile court unless otherwise specified in this section.

**Subd. 10. Custodian.** "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 in section 260.755, subdivision 10.

Subd. 11. **Delinquent child.** "Delinquent child" means a child:

(1) who has violated any state or local law, except as provided in section 260B.225, subdivision 1, and except for juvenile offenders as described in subdivisions 19 and 28; or

(2) who has violated a federal law or a law of another state and whose case has been referred to the juvenile court if the violation would be an act of delinquency if committed in this state or a crime or offense if committed by an adult.

Subd. 12. **Developmental disability.** "Developmental disability" means developmental disability as defined in United States Code, title 42, section 6001(8).

Subd. 13. **Domestic child abuse.** "Domestic child abuse" means:

(1) any physical injury to a minor family or household member inflicted by an adult family or household member other than by accidental means;

(2) subjection of a minor family or household member by an adult family or household member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342, 609.343, 609.344, 609.345, or 617.246; or

(3) physical or sexual abuse as defined in section 626.556, subdivision 2.

Subd. 14. **Egregious harm.** "Egregious harm" means the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care. The egregious harm need not have occurred in the state or in the county where a termination of parental rights action is otherwise properly venued. Egregious harm includes, but is not limited to:

(1) conduct towards a child that constitutes a violation of sections 609.185 to 609.21, 609.222, subdivision 2, 609.223, or any other similar law of any other state;

(2) the infliction of "substantial bodily harm" to a child, as defined in section 609.02, subdivision 7a;

(3) conduct towards a child that constitutes felony malicious punishment of a child under section 609.377;

(4) conduct towards a child that constitutes felony unreasonable restraint of a child under section 609.255, subdivision 3;

(5) conduct towards a child that constitutes felony neglect or endangerment of a child under section 609.378;

(6) conduct towards a child that constitutes assault under section 609.221, 609.222, or 609.223;

(7) conduct towards a child that constitutes solicitation, inducement, or promotion of, or receiving profit derived from prostitution under section 609.322;

(8) conduct towards a child that constitutes murder or voluntary manslaughter as defined by United States Code, title 18, section 1111(a) or 1112(a);

(9) conduct towards a child that constitutes aiding or abetting, attempting, conspiring, or soliciting to commit a murder or voluntary manslaughter that constitutes a violation of United States Code, title 18, section 1111(a) or 1112(a); or

(10) conduct toward a child that constitutes criminal sexual conduct under sections 609.342 to 609.345.

Subd. 15. **Emotional maltreatment.** "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. "Emotional maltreatment" does not include reasonable training or discipline administered by the person responsible for the child's care or the reasonable exercise of authority by that person.

Subd. 16. **Emotionally disturbed.** "Emotionally disturbed" means emotional disturbance as described in section 245.4871, subdivision 15.

Subd. 17. **Family or household members.** "Family or household members" means spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

Subd. 18. **Foster care.** "Foster care" means 24 hour substitute care for children placed away from their parents or guardian and for whom a responsible social services agency has placement and care responsibility. "Foster care" includes, but is not limited to, placement in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities not excluded in this subdivision, child care institutions, and preadoptive homes. A child is in foster care under this definition regardless of whether the facility is licensed and payments are made for the cost of care. Nothing in this definition creates any authority to place a child in a home or facility that is required to be licensed which is not licensed. "Foster care" does not include placement in any of the following facilities: hospitals, inpatient chemical dependency treatment facilities, facilities that are primarily for delinquent children, any corrections facility or program within a particular correction's facility not meeting requirements for title IV-E facilities as determined by the commissioner, facilities to which a child is committed under the provision of chapter 253B, forestry camps, or jails. Foster care is intended to provide for a child's safety or to access treatment. Foster care must not be used as a punishment or consequence for a child's behavior.

Subd. 19. **Habitual truant.** "Habitual truant" means a child under the age of 16 years who is absent from attendance at school without lawful excuse for seven school days if the child is in elementary school or for one or more class periods on seven school days if the child is in middle school, junior high school, or high school, or a child who is 16 or 17 years of age who is absent from attendance at school without lawful excuse for one or more class periods on seven school days and who has not lawfully withdrawn from school under section 120A.22, subdivision 8.

Subd. 20. **Indian.** "Indian," consistent with section 260.755, subdivision 7, means a person who is a member of an Indian tribe or who is an Alaskan native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act, United States Code, title 43, section 1606.

Subd. 21. **Indian child.** "Indian child," consistent with section 260.755, subdivision 8, means an unmarried person who is under age 18 and is:

- (1) a member of an Indian tribe; or
- (2) eligible for membership in an Indian tribe.

Subd. 22. **Legal custody.** "Legal custody" means the right to the care, custody, and control of a child who has been taken from a parent by the court in accordance with the provisions of section 260C.201 or 260C.317. The expenses of legal custody are paid in accordance with the provisions of section 260C.331.

Subd. 23. **Minor.** "Minor" means an individual under 18 years of age.

Subd. 24. **Neglected and in foster care.** "Neglected and in foster care" means a child:

- (1) who has been placed in foster care by court order; and
- (2) whose parents' circumstances, condition, or conduct are such that the child cannot be returned to them; and
- (3) whose parents, despite the availability of needed rehabilitative services, have failed to make reasonable efforts to adjust their circumstances, condition or conduct, or have willfully failed to meet reasonable expectations with regard to visiting the child or providing financial support for the child.

Subd. 25. **Parent.** (a) "Parent" means a person who has a legal parent and child relationship with a child which confers or imposes on the person legal rights, privileges, duties, and obligations consistent with sections 257.51 to 257.74 or 257.75. It includes the mother and child relationship and the father and child relationship. For matters governed by the Indian Child Welfare Act, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14, and does not include the unwed father where paternity has not been acknowledged or established.

(b) A legally recognized parent and child relationship is established for purposes of this chapter between:

- (1) a child and a biological mother, by proof of her having given birth to the child, or under sections 257.51 to 257.74 or 257.75;
- (2) a child and father when:
  - (i) there is a presumption of paternity under section 257.55, subdivision 1, paragraph (a), (b), or (c), and no action has been taken to declare the nonexistence of the father and child relationship;
  - (ii) there is a presumption of paternity under section 257.55, subdivision 1, paragraph (d), and there is an adjudication of paternity under sections 257.51 to 257.74, or the father and mother have signed a recognition of parentage having the effect of an adjudication under section 257.75;
  - (iii) there is a presumption of paternity under section 257.55, subdivision 1, paragraph (e), (f), (g), or (h), and there is an adjudication of paternity under sections 257.51 to 257.74;
  - (iv) there is no presumption of paternity under section 257.55, but the father has been adjudicated by court order under sections 257.51 to 257.74;
  - (v) there is no presumption of paternity under section 257.55, but the father and mother have signed a recognition of parentage having the effect of adjudication under section 257.75;

(vi) there is a positive test result under section 257.62, subdivision 5, and the father is adjudicated as the father of the child either by court order under sections 257.51 to 257.74, or because the father and the child's mother have signed a recognition of parentage having the effect of adjudication under section 257.75; or

(vii) the parent and child relationship is established under section 260.755, subdivision 14; or

(3) a child and an adoptive parent by proof of adoption.

Subd. 26. **Person.** "Person" includes any individual, association, corporation, partnership, and the state or any of its political subdivisions, departments, or agencies.

Subd. 27. **Relative.** "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 law or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903.

Subd. 28. **Runaway.** "Runaway" means an unmarried child under the age of 18 years who is absent from the home of a parent or other lawful placement without the consent of the parent, guardian, or lawful custodian.

Subd. 29. **Secure detention facility.** "Secure detention facility" means a physically restricting facility, including but not limited to a jail, a hospital, a state institution, a residential treatment center, or a detention home used for the temporary care of a child pending court action.

Subd. 30. **Shelter care facility.** "Shelter care facility" means a physically unrestricting facility, such as but not limited to, a hospital, a group home or a licensed facility for foster care, used for the temporary care of a child pending court action.

**History:** 1999 c 139 art 3 s 2; art 4 s 2; 1999 c 245 art 8 s 43-45; 2000 c 260 s 34; 2001 c 73 s 1; 2001 c 178 art 1 s 5-10,44; 2003 c 2 art 1 s 26; 1Sp2003 c 14 art 11 s 11; 2004 c 288 art 3 s 28; 2005 c 159 art 2 s 13; 2006 c 212 art 1 s 13; 2008 c 277 art 1 s 53; 2008 c 361 art 6 s 25-27; 2008 c 370 s 1; 2009 c 163 art 2 s 17,18; 2010 c 269 art 3 s 1; art 4 s 1; 2010 c 281 s 1; 2010 c 301 art 3 s 5