

§4002. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1979, c. 733, §18 (NEW).]

1. Abuse or neglect. "Abuse or neglect" means a threat to a child's health or welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation including under Title 17-A, sections 282, 852, 853 and 855 or deprivation of essential needs, or lack of protection from these, by a person responsible for the child. "Abuse or neglect" also means truancy under Title 20-A, section 3272, subsection 2, paragraph C or section 5051-A, subsection 1, paragraph C or D when truancy is the result of neglect by a person responsible for the child. "Abuse or neglect" also means a threat to a child's health or welfare caused by child sex trafficking by any person, regardless of whether or not the person is responsible for the child.

[PL 2021, c. 176, §1 (AMD).]

1-A. Abandonment. "Abandonment" means any conduct on the part of the parent showing an intent to forego parental duties or relinquish parental claims. The intent may be evidenced by:

A. Failure, for a period of at least 6 months, to communicate meaningfully with the child; [PL 1995, c. 481, §1 (AMD).]

B. Failure, for a period of at least 6 months, to maintain regular visitation with the child; [PL 1995, c. 481, §1 (AMD).]

C. Failure to participate in any plan or program designed to reunite the parent with the child; [PL 1983, c. 184, §1 (NEW).]

D. Deserting the child without affording means of identifying the child and the child's parent or custodian; [RR 2021, c. 2, Pt. B, §177 (COR).]

E. Failure to respond to notice of child protective proceedings; or [PL 1983, c. 184, §1 (NEW).]

F. Any other conduct indicating an intent to forego parental duties or relinquish parental claims. [PL 1983, c. 184, §1 (NEW).]

[RR 2021, c. 2, Pt. B, §177 (COR).]

1-B. Aggravating factor. "Aggravating factor" means any of the following circumstances with regard to the parent.

A. The parent has subjected any child for whom the parent was responsible to aggravated circumstances, including, but not limited to, the following:

- (1) Rape, gross sexual misconduct, gross sexual assault, sexual abuse, incest, aggravated assault, kidnapping, promotion of prostitution, sexual exploitation of a minor, sex trafficking or aggravated sex trafficking, abandonment, torture, chronic abuse or any other treatment that is heinous or abhorrent to society. [PL 2015, c. 360, §3 (AMD).]

A-1. The parent refused for 6 months to comply with treatment required in a reunification plan with regard to the child. [PL 2001, c. 696, §11 (NEW).]

B. The parent has been convicted of any of the following crimes and the victim of the crime was a child for whom the parent was responsible or the victim was a child who was a member of a household lived in or frequented by the parent:

- (1) Murder;
- (2) Felony murder;
- (3) Manslaughter;
- (4) Aiding, conspiring or soliciting murder or manslaughter;

(5) Felony assault that results in serious bodily injury; or

(6) Any comparable crime in another jurisdiction. [PL 1997, c. 715, Pt. B, §1 (NEW).]

C. The parental rights of the parent to a sibling have been terminated involuntarily. [PL 1997, c. 715, Pt. B, §1 (NEW).]

D. The parent has abandoned the child. [PL 1997, c. 715, Pt. B, §1 (NEW).]
[PL 2015, c. 360, §3 (AMD).]

1-C. Best interest of the child. "Best interest of the child," "best interests of the child," "child's best interest" and "child's best interests" mean the standard of the best interest of the child according to the factors set forth in Title 19-A, section 1653, subsection 3.
[PL 2017, c. 411, §2 (NEW).]

2. Child. "Child" means any person who is less than 18 years of age.
[PL 1979, c. 733, §18 (NEW).]

3. Child protection proceeding. "Child protection proceeding" means a proceeding on a child protection petition under subchapter VI, a subsequent proceeding to review or modify a case disposition under section 4038, an appeal under section 4006, a proceeding on a termination petition under subchapter VI, or a proceeding on a medical treatment petition under subchapter VIII.
[PL 1979, c. 733, §18 (NEW).]

3-A. Child Welfare Services Ombudsman.
[PL 2001, c. 439, Pt. X, §1 (RP).]

3-B. Child sex trafficking. "Child sex trafficking" means the recruitment, harboring, transportation, provision or obtaining of a child for the purposes of a commercial sex act as defined in 22 United States Code, Section 7102(4).
[PL 2021, c. 176, §2 (NEW).]

4. Custodial parent. "Custodial parent" means a parent with custody.
[PL 1979, c. 733, §18 (NEW).]

5. Custodian. "Custodian" means the person who has legal custody and power over the person of a child.
[PL 1979, c. 733, §18 (NEW).]

5-A. Foster parent. "Foster parent" means a person whose home is licensed by the department as a family foster home as defined in section 8101, subsection 3 and with whom the child lives pursuant to a court order or agreement with the department.
[PL 1997, c. 715, Pt. B, §2 (NEW).]

5-B. Fetal alcohol spectrum disorder. "Fetal alcohol spectrum disorder" means a condition whose effects include having facial characteristics, growth restriction, central nervous system abnormalities or other characteristics consistent with prenatal alcohol exposure identified in a child from birth to 12 months of age.
[PL 2019, c. 342, §1 (AMD).]

5-C. Grandparent. "Grandparent" means the parent of a child's parent.
[PL 2017, c. 411, §3 (NEW).]

6. Jeopardy to health or welfare or jeopardy. "Jeopardy to health or welfare" or "jeopardy" means serious abuse or neglect, as evidenced by:

A. Serious harm or threat of serious harm; [PL 1979, c. 733, §18 (NEW).]

B. Deprivation of adequate food, clothing, shelter, supervision or care; [PL 2021, c. 176, §3 (AMD).]

B-1. Deprivation of necessary health care when the deprivation places the child in danger of serious harm; [PL 2005, c. 373, §5 (NEW).]

B-2. Truancy under Title 20-A, section 3272, subsection 2, paragraph C or section 5051-A, subsection 1, paragraph C or D; [PL 2021, c. 176, §4 (NEW).]

C. Abandonment of the child or absence of any person responsible for the child, which creates a threat of serious harm; or [PL 1983, c. 184, §2 (AMD).]

D. The end of voluntary placement, when the imminent return of the child to the child's custodian causes a threat of serious harm. [RR 2021, c. 2, Pt. B, §178 (COR).]

[RR 2021, c. 2, Pt. B, §178 (COR).]

6-A. Licensed mental health professional. "Licensed mental health professional" means a psychiatrist, licensed psychologist, licensed clinical social worker or certified social worker. [PL 1985, c. 495, §16 (NEW).]

6-B. Qualified individual. "Qualified individual" has the same meaning as in 42 United States Code, Section 675a(c)(1)(D)(i) (2020). [PL 2021, c. 210, §1 (NEW).]

6-C. Qualified residential treatment program. "Qualified residential treatment program" means a program within a licensed children's residential care facility as defined in section 8101, subsection 4 that provides continuous 24-hour care and supportive services to children in a residential nonfamily home setting that:

A. Utilizes a trauma-informed treatment model that is designed to address the clinical and other needs of children with serious emotional and behavioral disorders or disturbances; [PL 2021, c. 210, §2 (NEW).]

B. Implements a specific treatment recommended in a needs assessment completed by a qualified individual; [PL 2021, c. 210, §2 (NEW).]

C. Employs registered or licensed nursing staff and other licensed clinical staff who are:

(1) On site according to the treatment model used pursuant to paragraph A and during business hours; and

(2) Available 7 days a week on a 24-hour basis; [PL 2021, c. 210, §2 (NEW).]

D. Appropriately facilitates outreach to family members and integrates those family members into the treatment of children; [PL 2021, c. 210, §2 (NEW).]

E. Provides discharge planning for children including 6 months of post-discharge aftercare support; [PL 2021, c. 210, §2 (NEW).]

F. Is licensed by the department in accordance with the United States Social Security Act, Section 471(a)(10); and [PL 2021, c. 210, §2 (NEW).]

G. Is accredited by an independent nonprofit organization approved by the department. [PL 2021, c. 210, §2 (NEW).]

[PL 2021, c. 210, §2 (NEW).]

7. Parent. "Parent" means a natural or adoptive parent or a parent established under Title 19-A, chapter 61, unless parental rights have been terminated.

[PL 2015, c. 296, Pt. C, §26 (AMD); PL 2015, c. 296, Pt. D, §1 (AFF).]

7-A. Permanent plan.
[PL 2005, c. 372, §2 (RP).]

8. Person. "Person" means an individual, corporation, facility, institution or agency, public or private.

[PL 1979, c. 733, §18 (NEW).]

9. Person responsible for the child. "Person responsible for the child" means a person with responsibility for a child's health or welfare, whether in the child's home or another home or a facility which, as part of its function, provides for care of the child. It includes the child's custodian.

[PL 1979, c. 733, §18 (NEW).]

9-A. Preadoptive parent. "Preadoptive parent" means a person who has entered into a preadoption agreement with the department with respect to the child.

[PL 1997, c. 715, Pt. B, §3 (NEW).]

9-B. Relative. "Relative" means a family member related to the child within the 3rd degree through parentage established under Title 19-A, chapter 61 or any spouse of that family member. "Relative" also includes the adoptive parent of the child's siblings. "Relative" includes, for an Indian child as defined by the Indian Child Welfare Act of 1978, 25 United States Code, Section 1903, Subsection 4, an extended family member as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, an extended family member as defined by the Indian Child Welfare Act of 1978, 25 United States Code, Section 1903, Subsection 2.

[PL 2017, c. 411, §4 (AMD).]

9-C. Removal of the child from home. "Removal of the child from home" means that the department or a court has taken a child out of the home of the parent, legal guardian or custodian without the permission of the parent or legal guardian.

[PL 1997, c. 715, Pt. B, §3 (NEW).]

9-D. Resource family. "Resource family" means a person or persons who provide care to a child in the child welfare system and who are foster parents, permanency guardians, adoptive parents or members of the child's extended birth family.

[PL 2011, c. 402, §1 (NEW).]

10. Serious harm. "Serious harm" means:

A. Serious injury; [PL 1979, c. 733, §18 (NEW).]

B. Serious mental or emotional injury or impairment which now or in the future is likely to be evidenced by serious mental, behavioral or personality disorder, including severe anxiety, depression or withdrawal, untoward aggressive behavior, seriously delayed development or similar serious dysfunctional behavior; or [PL 1985, c. 739, §3 (AMD).]

C. Sexual abuse or exploitation. [PL 1979, c. 733, §18 (NEW).]

[PL 1985, c. 739, §3 (AMD).]

11. Serious injury. "Serious injury" means serious physical injury or impairment.

[PL 1979, c. 733, §18 (NEW).]

12. Suspicious child death. "Suspicious child death" means the death of a child under circumstances in which there is reasonable cause to suspect that abuse or neglect was a cause of or factor contributing to the child's death.

[PL 2007, c. 586, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 733, §18 (NEW). PL 1983, c. 184, §§1,2 (AMD). PL 1985, c. 495, §16 (AMD). PL 1985, c. 739, §§1-3 (AMD). PL 1987, c. 511, §A2 (AMD). PL 1987, c. 769, §A77 (AMD). PL 1995, c. 481, §1 (AMD). PL 1997, c. 715, §§B1-3 (AMD). PL 2001, c. 439, §X1 (AMD). PL 2001, c. 696, §§10,11 (AMD). PL 2005, c. 372, §2 (AMD). PL 2005, c. 373, §§4,5 (AMD). PL 2007, c. 304, §§10, 11 (AMD). PL 2007, c. 371, §1 (AMD). PL 2007, c. 586, §1 (AMD). PL 2011, c. 402, §1 (AMD). PL 2013, c. 192, §1 (AMD). PL 2015, c. 296, Pt. C, §26 (AMD). PL 2015, c. 296, Pt. D, §1 (AFF). PL 2015, c. 360, §§2, 3 (AMD). PL 2017, c. 411, §§2-4 (AMD).

PL 2019, c. 342, §1 (AMD). PL 2021, c. 176, §§1-4 (AMD). PL 2021, c. 210, §§1, 2 (AMD).
RR 2021, c. 2, Pt. B, §§177, 178 (COR).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 130th Maine Legislature and is current through October 1, 2022. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.