

## **TITLE 10**

### **Courts and Judicial Procedure**

#### **Organization, Powers, Jurisdiction and Operation of Courts**

#### **CHAPTER 9. THE FAMILY COURT OF THE STATE OF DELAWARE**

##### **Subchapter I. Organization, Administration and Operation**

###### § 901. Definitions.

For the purpose of this chapter, unless the context indicates differently:

- (1) "Abuse" or "abused child" means that a person:
  - a. Causes or inflicts sexual abuse on a child; or
  - b. Has care, custody or control of a child, and causes or inflicts:
    1. Physical injury through unjustified force as defined in § 468 of Title 11;
    2. Emotional abuse;
    3. Torture;
    4. Exploitation; or
    5. Maltreatment or mistreatment.
- (2) "Adult" means a person who has reached his or her 18th birthday.
- (3) "Care, custody and control" or "those responsible for care custody and control" shall mean a person or persons in a position of trust, authority, supervision or control over a child. It may include:
  - a. A parent, guardian, or custodian;
  - b. Other members of the child's family or household, meaning persons living together permanently or temporarily without regard to whether they are related to each other and without regard to the length of time or lived in the household such as paramours of a member of the child's household;

- c. Any person who, regardless of whether a member of the child's household, is defined as family or relatives in this section or as an adult individual defined in § 1009(b)(3)a. of this title;
- d. Persons temporarily responsible for the child's well-being or care such as a healthcare provider, aide, teacher, instructor, coach, sitter, day care or child care provider, or any other person having regular direct contact with children through affiliation with a school, church, or religious institution, health care facility, athletic or charitable organization or any other organization whether such a person is compensated or acting as a volunteer; or
- e. Any person who has assumed control of or responsibility for the child.

For the purpose of investigation of child abuse, dependency or neglect, the Department of Services for Children and Their Families (DSCYF) may investigate any allegation of child abuse, dependency or neglect committed by persons identified herein, but shall only be responsible for the investigation of intrafamilial and institutional child abuse, dependency or neglect. Where the DSCYF is not responsible for the investigation of such child abuse or neglect, it shall immediately refer such report to the appropriate police authorities or child protective services agencies within or without the State.

- (4) "Child" means a person who has not reached his or her 18th birthday.
- (5) "Court" means the Family Court of the State of Delaware, and "court" refers to other courts of the State.
- (6) "Custodian" means any person who is charged by law with or who has assumed responsibility for a child's care.
- (7) "Delinquent child" means a child who commits an act which if committed by an adult would constitute a crime.
- (8) "Dependency" or "dependent child" means that a person:
  - a. Is responsible for the care, custody, and/or control of the child; and
  - b. Does not have the ability and/or financial means to provide for the care of the child; and
    - 1. Fails to provide necessary care with regard to: food, clothing, shelter, education, health care, medical care or other care necessary for the child's emotional, physical or mental health, or safety and general well-being; or

2. The child is living in a nonrelated home on an extended basis without the consent and approval of the DSCYF or any agency or court licensed or authorized to place children in a nonrelated home; or
3. The child has been placed with a licensed agency which certifies it cannot complete a suitable adoption plan.

In making a finding of dependency under this section, consideration may be given to dependency, neglect, or abuse history of any party.

- (9) "DSCYF" or "Department" means the Department of Services for Children, Youth and Their Families.
- (10) "Emotional abuse" means threats to inflict undue physical or emotional harm, and/or chronic or recurring incidents of ridiculing, demeaning, making derogatory remarks or cursing.
- (11) "Exploitation" means taking advantage of a child for unlawful or unjustifiable personal or sexual gain.
- (12) "Family" means husband and wife; a man and woman cohabiting in a home in which there is a child of either or both; custodian and child; or any group of persons related by blood or marriage who are residing in 1 home under 1 head or where 1 is related to the other by any of the following degrees of relationship, both parties being residents of this State:
  - a. Mother;
  - b. Father;
  - c. Mother-in-law;
  - d. Father-in-law;
  - e. Brother;
  - f. Sister;
  - g. Brother-in-law;
  - h. Sister-in-law;
  - i. Son;
  - j. Daughter;

- k. Son-in-law;
- l. Daughter-in-law;
- m. Grandfather;
- n. Grandmother;
- o. Grandson;
- p. Granddaughter;
- q. Stepfather;
- r. Stepmother;
- s. Stepson;
- t. Stepdaughter.

The relationships referred to in this definition include blood relationships without regard to legitimacy and relationships by adoption.

- (13) "Institutional child abuse or neglect" is child abuse or neglect which has occurred to a child in the DSCYF's custody and/or placed in a facility, center or home operated, contracted or licensed by the DSCYF.
- (14) "Intrafamilial child abuse or neglect" is any child abuse or neglect committed by:
  - a. A parent, guardian, or custodian;
  - b. Other members of the child's family or household, meaning persons living together permanently or temporarily without regard to whether they are related to each other and without regard to the length of time or continuity of such residence, and it may include persons who previously lived in the household such as paramours of a member of the child's household;
  - c. Any person who, regardless of whether a member of the child's household, is defined as family or a relative in this section or as an adult individual as defined in § 1009(b)(3)a. of this title.
- (15) "Law" means the common law and statutes of this State, the laws of any subdivision thereof, and regulations promulgated by a governmental agency having the force and effect of law.

- (16) "Mistreatment" or "maltreatment" are behaviors that inflict unnecessary or unjustifiable pain or suffering on a child without causing physical injury. Behaviors included will consist of actions and omissions, ones that are intentional and ones that are unintentional.
- (17) "Necessary care" means a type and degree of personalized attention that will tend to advance a child's physical, mental, emotional, moral and general well-being.
- (18) "Neglect" or "neglected child" means that a person:
- a. Is responsible for the care, custody, and/or control of the child; and
  - b. Has the ability and financial means to provide for the care of the child; and
    1. Fails to provide necessary care with regard to: food, clothing, shelter, education, health, medical or other care necessary for the child's emotional, physical, or mental health, or safety and general well-being; or
    2. Chronically and severely abuses alcohol or a controlled substance, is not active in treatment for such abuse, and the abuse threatens the child's ability to receive care necessary for that child's safety and general well-being, or
    3. Fails to provide necessary supervision appropriate for a child when the child is unable to care for that child's own basic needs or safety, after considering such factors as the child's age, mental ability, physical condition, the length of the caretaker's absence, and the context of the child's environment.

In making a finding of neglect under this section, consideration may be given to dependency, neglect, or abuse history of any party.

- (19) "Nonamenable child" means any child who is not amenable to the rehabilitative processes of the Family Court.
- (20) "Relative" means any person within the immediate family, and any grandparent, uncle, aunt, first cousin, great-grandparent, grandaunt or granduncle, half brother or half sister.
- (21) "Sexual abuse" means any act against a child that is described as a sex offense in § 761(g) of Title 11.

(22) "Truancy" or "truant" shall refer to a pupil enrolled in grades kindergarten through 12 inclusive who has been absent from school without valid excuse, as defined in rules and regulations of the district board of education of the school district in which the pupil is or should be enrolled pursuant to the provisions of Title 14, or in the case of a pupil enrolled in a charter school, by the board of directors of the charter school, with the approval of the State Board of Education, for more than 3 days or the equivalent thereof during a given school year.