

Child Abuse and Perpetrator: What's New?

Child abuse.--The term "child abuse" shall mean intentionally, knowingly or recklessly doing any of the following:

- (1) Causing bodily injury to a child through any recent act or failure to act.
- (2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
- (3) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
- (4) Causing sexual abuse or exploitation of a child through any act or failure to act.
- (5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
- (6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
- (7) Causing serious physical neglect of a child.
- (8) Engaging in any of the following recent acts:
 - (i) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
 - (ii) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
 - (iii) Forcefully shaking a child under one year of age.
 - (iv) Forcefully slapping or otherwise striking a child under one year of age.
 - (v) Interfering with the breathing of a child.
 - (vi) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
 - (vii) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:
 - (A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.
 - (B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.
 - (C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).
- (9) Causing the death of the child through any act or failure to act.

Bodily injury. Impairment of physical condition or substantial pain.

Serious physical neglect. Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

- (1) A repeated, prolonged or unconscionable egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.
- (2) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

Sexual abuse or exploitation. Any of the following:

(1) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:

- (i) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.
- (ii) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.
- (iii) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
- (iv) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

This paragraph does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within four years of the child's age.

(2) Any of the following offenses committed against a child:

- (i) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).
- (ii) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).
- (iii) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
- (iv) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).
- (v) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).
- (vi) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
- (vii) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).
- (viii) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
- (ix) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).
- (x) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).
- (xi) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
- (xii) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
- (xiii) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

Perpetrator. A person who has committed child abuse as defined in this section. The following shall apply:

(1) The term includes only the following:

- (i) A parent of the child.
- (ii) A spouse or former spouse of the child's parent.
- (iii) A paramour or former paramour of the child's parent.
- (iv) A person 14 years of age or older and responsible for the child's welfare.
- (v) An individual 14 years of age or older who resides in the same home as the child.
- (vi) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.

(2) Only the following may be considered a perpetrator for failing to act, as provided in this section:

- (i) A parent of the child.
- (ii) A spouse or former spouse of the child's parent.
- (iii) A paramour or former paramour of the child's parent.
- (iv) A person 18 years of age or older and responsible for the child's welfare.
- (v) A person 18 years of age or older who resides in the same home as the child.

Person responsible for the child's welfare. A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. The term includes any such person who has direct or regular contact with a child through any program, activity or service sponsored by a school, for-profit organization or religious or other not-for-profit organization.