

Colorado definitions of abuse and neglect in statute

19-1-103. Definitions.

As used in this title 19 or in the specified portion of this title 19, unless the context otherwise requires:

(1)

(a) “Abuse” or “child abuse or neglect”, as used in part 3 of article 3 of this title 19, means an act or omission in one of the following categories that threatens the health or welfare of a child:

(I) Any case in which a child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, or death and either: Such condition or death is not justifiably explained, the history given concerning such condition is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition may not be the product of an accidental occurrence;

(II) Any case in which a child is subjected to unlawful sexual behavior as defined in section 16-22-102 (9);

(III) Any case in which a child is in need of services because the child’s parent, legal guardian, or custodian fails to take the same actions to provide adequate food, clothing, shelter, medical care, or supervision that a prudent parent would take. The requirements of this subsection (1)(a)(III) are subject to the provisions of section 19-3-103. [see below]

(IV) Any case in which a child is subjected to emotional abuse. As used in this subsection (1)(a)(IV), “emotional abuse” means an identifiable and substantial impairment of the child’s intellectual or psychological functioning or development or a substantial risk of impairment of the child’s intellectual or psychological functioning or development.

(V) Any act or omission described in section 19-3-102 (1)(a), (1)(b), or (1)(c); [see below]

(VI) Any case in which, in the presence of a child, or on the premises where a child is found, or where a child resides, a controlled substance, as defined in section 18-18-102 (5), is manufactured or attempted to be manufactured;

(VII) Any case in which a child is born affected by alcohol or substance exposure, except when taken as prescribed or recommended and monitored by a licensed health-care provider, and the newborn child’s health or welfare is threatened by substance use;

(VIII) Any case in which a child is subjected to human trafficking of a minor for involuntary servitude, as described in section 18-3-503, or human trafficking of a minor for sexual servitude, as described in section 18-3-504 (2).

(b) In all cases, those investigating reports of child abuse shall take into account accepted child-rearing practices of the culture in which the child participates, including but not limited to accepted work-related practices of agricultural communities. Nothing in this subsection (1) refers to acts that could be construed to be a reasonable exercise of parental discipline or to acts reasonably necessary to subdue a child being taken into custody pursuant to section 19-2.5-209 that are performed by a peace officer, as described in section 16-2.5-101, acting in the good-faith performance of the officer’s duties.

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“Neglect”, as used in part 3 of article 3 of this title 19, means acts that can reasonably be construed to fall under the definition of “child abuse or neglect” as defined in subsection (1) of this section.

(b) A child is not neglected when allowed to participate in independent activities that a reasonable and prudent parent, guardian, or legal custodian would consider safe given the child’s maturity, condition, and abilities, including but not limited to activities such as:

(I) Traveling to and from school, including walking, running, bicycling, or other similar mode of travel;

(II) Traveling to and from nearby commercial or recreational facilities;

(III) Engaging in outdoor play; and

(IV) Remaining in a home or other location that a reasonable and prudent parent, guardian, or legal custodian would consider safe for the child.

19-3-102. Neglected or dependent child.

(1) A child is neglected or dependent if:

(a) A parent, guardian, or legal custodian has abandoned the child or has subjected him or her to mistreatment or abuse or a parent, guardian, or legal custodian has suffered or allowed another to mistreat or abuse the child without taking lawful means to stop such mistreatment or abuse and prevent it from recurring;

(b) The child lacks proper parental care through the actions or omissions of the parent, guardian, or legal custodian;

(c) The child’s environment is injurious to his or her welfare;

(d) A parent, guardian, or legal custodian fails or refuses to provide the child with proper or necessary subsistence, education, medical care, or any other care necessary for his or her health, guidance, or well-being;

(e) The child is homeless, without proper care, or not domiciled with his or her parent, guardian, or legal custodian through no fault of such parent, guardian, or legal custodian;

(f) The child has run away from home or is otherwise beyond the control of his or her parent, guardian, or legal custodian;

(g) The child is born affected by alcohol or substance exposure, except when taken as prescribed or recommended and monitored by a licensed health care provider, and the newborn child’s health or welfare is threatened by substance use.

(2) A child is neglected or dependent if:

(a) A parent, guardian, or legal custodian has subjected another child or children to an identifiable pattern of habitual abuse; and

(b) Such parent, guardian, or legal custodian has been the respondent in another proceeding under this article in which a court has adjudicated another child to be neglected or dependent based upon allegations of sexual or physical abuse, or a court of competent jurisdiction has determined that such parent’s, guardian’s, or legal custodian’s abuse or neglect has caused the death of another child; and

(c) The pattern of habitual abuse described in paragraph (a) of this subsection (2) and the type of abuse described in the allegations specified in paragraph (b) of this subsection (2) pose a current threat to the child.

19-3-103. Child not neglected - when.

(1) No child who in lieu of medical treatment is under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing shall, for that reason alone, be considered to have been neglected or dependent within the purview of this article. However, the religious rights of a parent, guardian, or legal custodian shall not limit the access of a child to medical care in a life-threatening situation or when the condition will result in serious disability. In order to make a determination as to whether the child is in a life-threatening situation or that the child's condition will result in serious disability, the court may, as provided under section 19-1-104 (3), order a medical evaluation of the child. If the court determines, on the basis of any relevant evidence before the court, including the medical evaluation ordered pursuant to this section, that the child is in a life-threatening situation or that the child's condition will result in serious disability, the court may, as provided under section 19-1-104 (3), order that medical treatment be provided for the child. A child whose parent, guardian, or legal custodian inhibits or interferes with the provision of medical treatment in accordance with a court order shall be considered to have been neglected or dependent for the purposes of this article and injured or endangered for the purposes of section 18-6-401, C.R.S.

(2) A method of religious healing shall be presumed to be a recognized method of religious healing if:

(a)

(I) Fees and expenses incurred in connection with such treatment are permitted to be deducted from taxable income as medical expenses pursuant to regulations or rules promulgated by the United States internal revenue service; and

(II) Fees and expenses incurred in connection with such treatment are generally recognized as reimbursable health-care expenses under medical policies of insurance issued by insurers licensed by this state; or

(b) Such treatment provides a rate of success in maintaining health and treating disease or injury that is equivalent to that of medical treatment.

(3) Refusing an immunization on the grounds of medical, religious, or personal belief considerations, as set forth in section 25-4-903, or opting to exclude immunization notification information from the immunization tracking system established in section 25-4-2403 (7) by itself does not constitute child abuse or neglect by a parent or legal guardian for the purposes of this article 3.

(4)

(a) A person who performs or has performed an action that is lawful pursuant to section 18-18-434, article 170 of title 12, or article 50 of title 44 does not constitute child abuse or neglect by a parent or legal guardian for purposes of this article 3, unless it threatens the health or welfare of a child.

(b) The court shall not restrict or prohibit family time, or determine that family time is not in the child's best interests, based solely on the fact that a person performs or has performed an action that is lawful pursuant to section 18-18-434, article 170 of title 12, or article 50 of title 44, unless the court finds that the child's safety or mental, emotional, or physical health is at risk as a result of the family time.