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Chapter:	Child Safety Interventions	
Subject:	Child Abuse and Neglect Definitions	Page 1 of 10
Approved:	Karen Shea, Interim Deputy Commissioner	Effective: 7/29/2016
Supersedes:	Family Services Policy 50	Dated: 4/12/2016

**Abused or Neglected Child:** A child whose physical health, psychological growth and development or welfare is harmed or is at substantial risk of harm by the acts or omissions of his or her parent or other person responsible for the child’s welfare. Also, a child who is sexually abused or at substantial risk of sexual abuse by any person and a child who has died as a result of abuse or neglect (33 VSA § 4912(1)).

**Abandonment:** Occurs when a parent or person responsible for the child’s welfare fails or ceases to provide for the needs of the child and has not made arrangements for the child’s care. The situation must exist beyond a reasonable time based on the child’s age and developmental level.

**Accepted Report:** A report that has been determined by a reviewer to be a valid allegation of child abuse or neglect.

**Assessment:** A response to a report of child abuse or neglect that focuses on the identification of the strengths and support needs of the child and the family, and any services they may require to improve or restore their well-being and to reduce the risk of future harm. The child and family assessment does not result in a formal determination as to whether the reported abuse or neglect has occurred (33 VSA § 4912(2)).

**Assessment Record:** A summary of information gathered during the assessment phase which includes an evaluation of safety of the subject child and other children living in the same environment; identification of family strengths; resources; service needs; the recommended plan of services.

**Child:** An individual under the age of majority (33 VSA 4912 (3)).

**Child in Need of Care or Supervision (CHINS):** A child who:

- (A) has been abandoned or abused by the child’s parent, guardian, or custodian. A person is considered to have abandoned a child if the person is: unwilling to have physical custody of the child; unable, unwilling, or has failed to make appropriate arrangements for the child’s care; unable to have physical custody of the child and has not arranged or cannot arrange for the safe and appropriate care of the child; or has left the child with a care provider and the care provider is unwilling or unable to provide care or support for the child, the whereabouts of the person are unknown, and reasonable efforts to locate the person have been unsuccessful.
- (B) is without proper parental care or subsistence, education, medical, or other care necessary for his or her well-being;
- (C) is without or beyond the control of his or her parent, guardian, or custodian; or

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(D) is habitually and without justification truant from compulsory school attendance (33 VSA § 5102(3)).

**Child Care Facility:** Any place or program operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care, and supervision of children under 16 years of age outside their homes for periods of less than 24 hours a day by a person other than a child's own parent, guardian, or relative, as defined by rules adopted by the department for children and families, but not including a kindergarten approved by the state board of education (33 VSA Chapter 35 § 4902 (2)).

**Child Pornography:** Any visual representation of a child or portion of a child's body which depicts nudity, sexual conduct or sado-masochistic abuse and which is harmful to children or violates community standards of morality and decency. Includes:

- Aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child.
- Viewing, possessing, or transmitting child pornography, with the exclusion of the exchange of images between mutually consenting minors, including the minor whose image is exchanged.

**Using a child or youth in child pornography is sex trafficking of a minor. Child pornography and sex trafficking of minors are forms of child sexual abuse.**

**Child Protection Registry:** A record of all investigations that have resulted in a substantiated report on or after January 1, 1992 (33 VSA § 4912(4)).

**Child Safety Intervention:** A child abuse or neglect investigation or assessment conducted under the authority of 33 VSA Chapter 49, or a CHINS (B) assessment conducted under the authority of 334 VSA Chapter 51.

**Disfigurement:** That which impairs or injures the beauty, symmetry, or appearance of a person or thing; that which renders unsightly, misshapen, or imperfect, or deforms in some manner.

**Domestic Violence:** A pattern of assaultive and coercive behaviors including physical, sexual, psychological, emotional, and economic coercion that an adult or adolescent uses to obtain and maintain control over an intimate partner.

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**Educational Neglect:** Educational neglect occurs when a parent or person responsible for a child’s care knowingly fails to enroll a child in school or to provide education in accordance with 16 V.S.A. § 1121. The child regularly fails to attend school through the parent or caretaker’s action or inaction. Educational neglect will be considered for children beginning at age six until the completion of the sixth grade, where the expectation is that the parent or caretaker is responsible for getting the child to school and the parent or caretaker’s behavior has contributed to the child’s lack of attendance. Exceptions to this age/grade consideration apply if circumstances of the child or youth, such as intellectual or developmental disabilities, exclude them from being held responsible for getting themselves to school.

Referrals for “educational neglect” will be assessed according to Family Services [Policy 60](#): Juvenile Proceedings Act – CHINS (C) and (D) Assessments. The results of these assessment will not be substantiated nor entered into the Child Abuse Registry.

**Emotional Maltreatment:** A pattern of malicious behavior which results in impaired psychological growth and development (33 VSA § 4912(5)).

**Exploitation:** To take unjust advantage of a child for one’s own gain or gratification. Exploitation is a form of child sexual abuse.

**Harm** (33 VSA § 4912(6)) can occur by:

- physical injury or emotional maltreatment; or,
- failure to supply the child with adequate food, clothing, shelter or health care, including medical or non-medical remedial health care permitted or authorized under state law (33 VSA Chapter 49); or
- abandonment.

**Human Trafficking:** A form of child sexual abuse. See **Sex Trafficking of Minors**.

**Incest:** A sexual act or lewd and lascivious conduct between a child and his or her parent, step-parent, grandparent, sibling or half-sibling, aunt, uncle, niece or nephew. Incest is a form of child sexual abuse.

**Impair:** To weaken, make worse, lessen in power, diminish, or otherwise affect in an injurious manner. See **Physical Injury** and **Serious Physical Injury**.

**Intake Report:** The documentation of a report in the FSDNet Intake Module.

**Investigation:** A response to a report of child abuse or neglect that begins with the systematic gathering of information to determine whether the abuse or neglect has

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occurred and, if so, the appropriate response. An investigation shall result in a formal determination as to whether the reported abuse or neglect has occurred (33 VSA § 4912(7)).

**Investigation Record:** A summary of information gathered during the investigation phase which includes the nature, extent and cause of any abuse or neglect; the identity of the person alleged to be responsible for such abuse or neglect; consideration of the physical and emotional condition of other children living in the same environment and a formal determination as to whether the reported abuse or neglect has occurred.

**Lewd and Lascivious Conduct:** Committing a lewd or lascivious act upon or with any part of the body of a child or in the presence of the child when such conduct violates community standards of morality and decency. Lewd and lascivious conduct is a form of child sexual abuse.

This definition only applies when there is (1) a significant difference in age, size or development or (2) a lack of opportunity or ability to consent and the behavior would not be considered developmentally normal during childhood or adolescence. For children over the age of 16 who have been subjected to this conduct, this is limited to conduct which is forced, threatened or coerced, or the victim lacked the opportunity or ability to consent.

**Luring:** To solicit, lure, or entice, or to attempt to solicit, lure, or entice, a child under the age of 16 or another person believed by the person to be a child under the age of 16, to engage in a sexual act or engage in lewd and lascivious conduct. Luring includes solicitation, luring, or enticement by any means, including in person, through written or telephonic correspondence or electronic communication. Luring is a form of child sexual abuse.

This definition only applies when there is (1) a significant difference in age, size or development and (2) the behavior would not be considered developmentally normal during childhood or adolescence.

**Malicious Punishment:** Includes **but is not limited to** throwing, kicking, burning, biting or cutting a child or striking a child with a closed fist or an object; interfering with a child's breathing; threatening a child with a weapon; purposely giving a child poison, alcohol, or dangerous, harmful or controlled substances not prescribed for the child by a practitioner, in order to control or punish the child; purposefully giving a child a substance that substantially affects the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances; unreasonable physical confinement or restraint including tying, caging, or chaining:

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physically abusing a child under the age of 3, including shaking; physically abusing a child of any age who is non-verbal or non-ambulatory.

**Member of the Clergy:** A priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, nun, brother, ordained or licensed minister, leader of any church or religious body, or accredited Christian Science practitioner (33 VSA § 4912(8)).

**Molestation:** To maltreat a child in a sexual way. Molestation is a form of child sexual abuse.

**Neglect:** The failure to supply a child with adequate food, clothing, shelter or health care, including medical or non-medical remedial health care permitted or authorized under state law (33 VSA § 4912(6)(B)).

**Obscenity:** To sell, lend, distribute, give away, or show to a child or cause a child to be shown, any visual representation of a person or portion of the human body which depicts nudity, sexual conduct or sado-masochistic abuse and which is harmful to children. Obscenity does not include conduct that would be considered developmentally normal during childhood or adolescence or to the exchange of images between mutually consenting minors, including the minor whose image is being exchanged. Obscenity is a form of child sexual abuse.

**Perpetrator:** An individual of any age who is determined to have committed child abuse or neglect.

**Person Responsible for a Child's Welfare:** Includes the child's parent; guardian; foster parent; any other adult residing in the child's home who serves in a parental role; an employee of a public or private residential home, institution or agency; or other person responsible for the child's welfare while in a residential, educational, or child care setting, including any staff person (33 VSA 4912(10)).

**Physical Injury:** Death, or permanent or temporary disfigurement or impairment of any bodily organ or function by other than accidental means (33 VSA § 4912(11)).

**Prostitution:** A form of child sexual abuse. See **Sex Trafficking of Minors**.

**Rape:** A form of child sexual abuse. See **Sexual Assault**.

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**Reasonable:** Just, proper, ordinary or usual, fit and appropriate to the desired outcome.

**Redacted Investigation File:** The intake report, the investigation activities summary, and case determination report that are amended in accordance with confidentiality requirements set forth in subsection 4913(d) of this title (33 VSA § 4912(13)).

**Registry Record:** An entry in the child protection registry that consists of the name of an individual substantiated for child abuse or neglect, the date of the finding, the nature of the finding, and at least one other personal identifier, other than a name, listed in order to avoid the possibility of misidentification (33 VSA § 4912(15)).

**Religious Exemption:** A provision under 33 VSA § 4912(3)(B)) that a parent or other person responsible for a child’s care legitimately practicing his religious beliefs who thereby does not provide specific medical treatment for a child shall not be considered neglectful for that reason alone.

**Report:** A concern about suspected child abuse or neglect, as communicated to the department in-person, by telephone, or by written communication by a staff member or member of the public.

**Risk of Harm:** A significant danger that a child will suffer serious harm by other than by accidental means, which harm would be likely to cause physical injury or sexual abuse, including **but not limited to**, as the result of:

- a single, egregious act that has caused the child to be at significant risk of serious physical injury;
- the production or pre-production of methamphetamines when a child is actually present;
- failing to provide supervision or care appropriate for the child’s age or development and, as a result, the child is at significant risk of serious physical injury;
- failing to provide supervision or care appropriate for the child’s age or development due to use of illegal substances, or misuse of prescription drugs or alcohol;
- failing to supervise appropriately a child in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child; and
- a registered sex offender or person substantiated for sexually abusing a child residing with or spending unsupervised time with a child ((33 VSA § 4912(14)).

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**Safety Network:** Family, friends, and community members who care about the child and are willing to take action to support the family and keep the child safe. They are willing to engage child protection staff and understand the concerns.

**Serious Physical Injury:** By other than accidental means:

- (A) Physical injury that creates any of the following:
  - i. a substantial risk of death;
  - ii. a substantial loss or impairment of the function of any bodily member or organ;
  - iii. a substantial impairment of health; or
  - iv. substantial disfigurement; or
- (B) Strangulation by intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person (33 VSA § 4912(17)).

**Sexual Abuse:** Consists of any act or acts by any person involving sexual molestation or exploitation of a child, including **but not limited to:**

- (A) incest;
- (B) prostitution;
- (C) rape;
- (D) sodomy;
- (E) or any lewd and lascivious conduct involving a child;
- (F) aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child;
- (G) viewing, possessing, or transmitting child pornography, with the exclusion of the exchange of images between mutually consenting minors, including the minor whose image is exchanged;
- (H) human trafficking;
- (I) sexual assault;
- (J) voyeurism;
- (K) luring a child; or
- (L) obscenity ((33 VSA § 4912(17)).

**Sexual Act:** Conduct between persons consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, penis and penis, vulva and vulva, or any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another.

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**Sexual Assault:** Engaging in a sexual act with:

- (A) a child under the age of 16, except where:
- i. the persons are married to each other and the sexual act is consensual;
  - ii. alleged perpetrator is less than 19 years old, the alleged victim is at least 15 years old, the sexual act is consensual and the alleged perpetrator does not serve in a parental role.
  - iii. both persons are under 18 years of age and the contact is mutually agreeable and there is no information to suggest use of force, threat or coercion, lack of opportunity or ability to consent, or significant age, size or developmental differences between the involved persons. Conduct that would be considered developmentally normal during childhood or adolescence is not sexual assault.
- (B) a child over the age of 16, if the sexual act is forced, threatened or coerced, or lacked the opportunity or ability to consent.

Sexual assault includes a sexual act with a child who is under the age of 18 and is entrusted to the actor's care by authority of law or resides in the victim's household and serves in a parental role with respect to the victim. Sexual assault is a form of child sexual abuse.

**Sex Trafficking of Minors:** A range of crimes committed against children and adolescents, including **but not limited to:**

- exploiting a minor;
- recruiting, enticing, harboring, transporting, providing, or obtaining minors by any means for the purpose of sexual exploitation;
- exploiting a minor through survival sex (exchanging sex or sexual acts for money or something of value, such as shelter, food, or drugs);
- using a minor in child pornography;
- exploiting a minor through sex tourism, mail order bride trade, or early marriage; or,
- exploiting a minor by having her/him perform in sexual venues (e.g., peep shows or strip clubs).

Sex trafficking of minors is a form of child sexual abuse.

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***Significant Age Difference:***

Alleged victims 13 years old and younger	3 year developmental or chronological age differential with the alleged actor
Alleged victims 14 & 15 years old	4 year developmental or chronological age differential with the alleged actor
Alleged victims 16 years old and older	Age difference does not apply. Reports will be screened for elements of force, threat, coercion or lack of opportunity or ability to consent

***Sodomy:*** A form of child sexual abuse. See **Sexual Assault**.

***Substantial Child Endangerment:*** Conduct by an adult involving or resulting in sexual abuse, and conduct by a person responsible for a child’s welfare involving or resulting in abandonment, child fatality, malicious punishment, or abuse or neglect that causes serious physical injury.

***Substantiated Report:*** The Commissioner or the Commissioner’s designee has determined after investigation that a report is based on accurate and reliable information that would lead a reasonable person to believe that the child has been abused or neglected (33 VSA § 4912(16)).

***Valid Allegation:*** A report of child abuse or neglect that has been accepted for either an investigation or an assessment.

***Voyeurism:*** To view, photograph, film, or record in any format the intimate areas of a child naked or undergarment-clad, including genitals, pubic area, buttocks, or female breast of a child that is unrelated to a legitimate professional or caretaker purpose and the conduct violates community standards of morality and decency. Voyeurism is a form of child sexual abuse.

## Family Services Policy 50: Appendix I

### Child Sexual Abuse Definition Overview

**Sexual Abuse:** Consists of any act or acts by any person involving sexual molestation<sup>1</sup> or exploitation<sup>2</sup> of a child, including **but not limited to** ((33 VSA § 4912(17)):

(A)	<b>Incest</b> – A sexual act or lewd and lascivious conduct between a child and his or her parent, step-parent, grandparent, sibling or half-sibling, aunt, uncle, niece or nephew.
(B)	<b>Prostitution</b> – (Sex Trafficking of Minors)
(C)	<b>Rape</b> – (Sexual Assault)
(D)	<b>Sodomy</b> – (Sexual Assault)
(E)	<b>Lewd and Lascivious Conduct</b> – Committing a lewd or lascivious act upon or with any part of the body of a child or in the presence of the child when such conduct violates community standards of morality and decency. This definition only applies when there is (1) a significant difference in age, size or development or (2) a lack of opportunity or ability to consent and the behavior would not be considered developmentally normal during childhood or adolescence. For children over the age of 16 who have been subjected to this conduct, this is limited to conduct which is forced, threatened or coerced, or the victim lacked the opportunity or ability to consent.
(F)	Aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child. (Child Pornography)
(G)	Viewing, possessing, or transmitting child pornography, with the exclusion of the exchange of images between mutually consenting minors, including the minor whose image is exchanged. (Child Pornography)
(H)	<b>Human Trafficking</b> (Sex Trafficking of Minors) – A range of crimes committed against children and adolescents, including but not limited to: <ul style="list-style-type: none"> <li>• exploiting a minor;</li> <li>• recruiting, enticing, harboring, transporting, providing, or obtaining minors by any means for the purpose of sexual exploitation;</li> <li>• exploiting a minor through survival sex (exchanging sex or sexual acts for money or something of value, such as shelter, food, or drugs);</li> <li>• using a minor in child pornography;</li> <li>• exploiting a minor through sex tourism, mail order bride trade, or early marriage; or,</li> <li>• exploiting a minor by having her/him perform in sexual venues (e.g., peep shows or strip clubs).</li> </ul>
(I)	<b>Sexual Assault</b> – Engaging in a sexual act with: <b>(A)</b> a child under the age of 16, except where: (i.) the persons are married to each other and the sexual act is consensual; (ii.) alleged perpetrator is less than 19 years old, the alleged victim is at least 15 years old, the sexual act is consensual and the alleged perpetrator does not serve in a parental role; (iii.) both persons are under 18 years of age and the contact is mutually agreeable and there is no information to suggest use of force, threat or coercion, lack of opportunity or ability to consent, or significant age, size or developmental differences between the involved persons. Conduct that would be considered developmentally normal during childhood or adolescence is not sexual assault. <b>(B)</b> a child over the age of 16, if the sexual act is forced, threatened or coerced, or lacked the opportunity or ability to consent. Sexual assault includes a sexual act with a child who is under the age of 18 and is entrusted to the actor's care by authority of law or resides in the victim's household and serves in a parental role with respect to the victim.
(J)	<b>Voyeurism</b> – To view, photograph, film, or record in any format the intimate areas of a child naked or undergarment-clad, including genitals, pubic area, buttocks, or female breast of a child that is unrelated to a legitimate professional or caretaker purpose and the conduct violates community standards of morality and decency.
(K)	<b>Luring</b> (a child) – To solicit, lure, or entice, or to attempt to solicit, lure, or entice, a child under the age of 16 or another person believed by the person to be a child under the age of 16, to engage in a sexual act or engage in lewd and lascivious conduct. Luring includes solicitation, luring, or enticement by any means, including in person, through written or telephonic correspondence or electronic communication. This definition only applies when there is (1) a significant difference in age, size or development and (2) the behavior would not be considered developmentally normal during childhood or adolescence.; or
(L)	<b>Obscenity</b> – To sell, lend, distribute, give away, or show to a child or cause a child to be shown, any visual representation of a person or portion of the human body which depicts nudity, sexual conduct or sado-masochistic abuse and which is harmful to children. Obscenity does not include conduct that would be considered developmentally normal during childhood or adolescence or to the exchange of images between mutually consenting minors, including the minor whose image is being exchanged.

<sup>1</sup> **Molestation** – To maltreat a child in a sexual way.

<sup>2</sup> **Exploitation** – To take unjust advantage of a child for one's own gain or gratification.