

Art. 603. Definitions - LOUISIANA

As used in this Title:

- (1) "Abuse" means any one of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:
 - (a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.
 - (b) The exploitation or overwork of a child by a parent or any other person.
 - (c) The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the child's sexual involvement with any other person or of the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.
- (2) "Administrative review body" means a panel of appropriate persons, at least one of whom is not responsible for the case management of or delivery of services to either the child or the parents who are the subject of the review, including the citizen review boards, state hearing examiners, special department reviewers, or department personnel.
- (3) "Caretaker" means any person legally obligated to provide or secure adequate care for a child, including a parent, tutor, guardian, legal custodian, foster home parent, an employee of a public or private day care center, an operator or employee of a registered family child day care home, or other person providing a residence for the child.
- (4) "Case review hearing" means a review hearing by a court or administrative review body for the purpose of determining the continuing necessity for and appropriateness of the child's placement, to determine the extent of compliance with the case plan, to determine the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement, and to project a likely date by which the child may be permanently placed.
- (5) "Child" means a person under eighteen years of age who, prior to juvenile proceedings, has not been judicially emancipated under Civil Code Article 385 or emancipated by marriage under Civil Code Articles 379 through 384.
- (6) "Child care agency" means any public or private agency exercising custody of a child.
- (7) "Child pornography" means visual depiction of a child engaged in actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals.
- (8) "Concurrent planning" means departmental efforts to preserve and reunify a family, or to place a child for adoption or with a legal guardian which are made simultaneously.
- (9) "Court-appointed or court-approved administrative body" means a body appointed or approved by a court and subject to the court's supervision for the purposes of assisting the court with permanency hearings, including magistrates or other court or noncourt personnel. This body shall not be a part of the Department of Children and Family Services or the Department of Public Safety and Corrections, nor subject to the supervision or direction of either department.
- (10) "Crime against the child" shall include the commission of or the attempted commission of any of the following crimes against the child as provided by federal or state statutes:
 - (a) Homicide.
 - (b) Battery.
 - (c) Assault.
 - (d) Rape.
 - (e) Sexual battery.

- (f) Kidnapping.
 - (g) Criminal neglect.
 - (h) Criminal abandonment.
 - (i) Incest.
 - (j) Carnal knowledge of a juvenile.
 - (k) Indecent behavior with juveniles.
 - (l) Pornography involving juveniles.
 - (m) Molestation of a juvenile.
 - (n) Crime against nature.
 - (o) Cruelty to juveniles.
 - (p) Contributing to the delinquency or dependency of children.
 - (q) Sale of minor children.
- (11) "Department" means the Louisiana Department of Children and Family Services.
- (12) "Foster care" means placement in a foster family home, a relative's home, a residential child caring facility, or other living arrangement approved and supervised by the state for provision of substitute care for a child in the department's custody. Such placement shall not include a detention facility.
- (13) "Foster parent" means an individual who provides residential foster care with the approval and under the supervision of the department for a child in its custody.
- (14) "Institutional abuse or neglect" means any case of child abuse or neglect that occurs in any public or private facility that provides residential child care, treatment, or education.

(15) "Mandatory reporter" is any of the following individuals performing their occupational duties:

(a) "Health practitioner" is any individual who provides health care services, including a physician, surgeon, physical therapist, dentist, resident, intern, hospital staff member, podiatrist, chiropractor, licensed nurse, nursing aide, dental hygienist, any emergency medical technician, a paramedic, optometrist, medical examiner, or coroner, who diagnoses, examines, or treats a child or his family.

(b) "Mental health/social service practitioner" is any individual who provides mental health care or social service diagnosis, assessment, counseling, or treatment, including a psychiatrist, psychologist, marriage or family counselor, social worker, member of the clergy, aide, or other individual who provides counseling services to a child or his family.

(c) "Member of the clergy" is any priest, rabbi, duly ordained clerical deacon or minister, Christian Science practitioner, or other similarly situated functionary of a religious organization, except that he is not required to report a confidential communication, as defined in Code of Evidence Article 511, from a person to a member of the clergy who, in the course of the discipline or practice of that church, denomination, or organization, is authorized or accustomed to hearing confidential communications, and under the discipline or tenets of the church, denomination, or organization has a duty to keep such communications confidential. In that instance, he shall encourage that person to report the allegations to the appropriate authorities in accordance with Article 610.

(d) "Teaching or child care provider" is any person who provides training and supervision of a child, including any public or private teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, or any individual who provides such services to a child.

(e) Police officers or law enforcement officials.

(f) "Commercial film and photographic print processor" is any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides for compensation.

(g) Mediators appointed pursuant to Chapter 6 of Title IV.

(h) A parenting coordinator appointed pursuant to R.S. 9:358.1 et seq.

(i) A court-appointed special advocates (CASA) volunteer under the supervision of a CASA program appointed pursuant to Chapter 4 of Title IV.

(16) "Neglect" means the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired. Neglect includes prenatal neglect. Consistent with Article 606(B), the inability of a parent or caretaker to provide for a child due to inadequate financial resources shall not, for that reason alone, be considered neglect. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing which has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or maltreated. However, nothing herein shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health or welfare.

NOTE: Paragraph (17) as enacted by Acts 2007, No. 396, §1, eff. if funds are appropriated by the legislature.

(17) "Newborn" means a child who is not more than thirty days old, as determined within a reasonable degree of medical certainty by an examining physician.

(18) "Other suitable individual" means a person with whom the child enjoys a close established significant relationship, yet not a blood relative, including a neighbor, godparent, teacher and close friend of the parent. Relative for the purpose of this title means an individual with whom the child has established a significant relationship by blood, adoption, or affinity.

(19) "Permanency hearing" means a hearing for the purpose of determining the permanent plan for the child.

(20) "Permanent placement" means:

(a) Return of the legal custody of a child to his parent(s).

(b) Placement of the child with adoptive parents pursuant to a final decree of adoption.

(c) Placement of the child with a legal guardian.

(21) "Person" means any individual, partnership, association, agency, or corporation, and specifically shall include city, parish, or state law enforcement agencies, and a parish or city school board or a person employed by a parish or city school board.

NOTE: Paragraph (22) eff. until funds are appropriated by the legislature to implement the amendment by Acts 2007, No. 396, §1.

(22) "Prenatal neglect" means the unlawful use by a mother during pregnancy of a controlled dangerous substance, as defined by R.S. 40:961 et seq., which results in symptoms of withdrawal in the infant or the presence of a controlled substance in the infant's body.

NOTE: Paragraph (22) as amended by Acts 2007, No. 396, §1, eff. if funds are appropriated by the legislature.

(22) "Prenatal neglect" means exposure to chronic or severe use of alcohol or the unlawful use of any controlled dangerous substance, as defined by R.S. 40:961 et seq., or in a manner not lawfully prescribed, which results in symptoms of withdrawal in the newborn or the presence of a controlled substance or a metabolic thereof in his body, blood, urine, or meconium that is not the result of medical treatment, or observable and harmful effects in his physical appearance or

functioning.

(23) "Reasonable efforts" means the exercise of ordinary diligence and care by department caseworkers and supervisors and shall assume the availability of a reasonable program of services to children and their families.

(24) "Removal" means placing a child in the custody of the state or with someone other than the parent or caretaker during or after the course of an investigation of abuse and neglect to secure the child's protection and safeguard the child's welfare.

(25) "Safety plan" means a short-term plan for the purpose of assuring a child's immediate health and safety by imposing conditions for the continued placement of the child with a custodian and terms for contact between the child and his parents or other persons.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1993, No. 634, §1, eff. June 15, 1993; Acts 1995, No. 444, §1, eff. June 17, 1995; Acts 1999, No. 449, §§1, 2, eff. July 1, 1999; Acts 1999, No. 769, §1, eff. July 2, 1999; Acts 1999, No. 894, §1; Acts 2001, No. 567, §1; Acts 2003, No. 567, §1; Acts 2003, No. 1187, §1; Acts 2004, No. 398, §1, eff. June 23, 2004; Acts 2005, No. 148, §1; Acts 2005, No. 338, §1; Acts 2006, No. 157, §1; Acts 2006, No. 278, §1; Acts 2007, No. 119, §1, eff. June 25, 2007; Acts 2007, No. 265, §1; Acts 2007, No. 334, §1; Acts 2007, No. 396, §1, eff. when funds are appropriated by the legislature; Acts 2008, No. 394, §1, eff. June 21, 2008.