

**232.68 Definitions.**

The definitions in section 235A.13 are applicable to this part 2 of division III. As used in sections 232.67 through 232.77 and 235A.12 through 235A.24, unless the context otherwise requires:

1. “*Child*” means any person under the age of eighteen years.

2. a. “*Child abuse*” or “*abuse*” means:

(1) Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child.

(2) Any mental injury to a child’s intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child’s ability to function within the child’s normal range of performance and behavior as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional as defined in section 622.10.

(3) The commission of a sexual offense with or to a child pursuant to chapter 709, section 726.2, or section 728.12, subsection 1, as a result of the acts or omissions of the person responsible for the care of the child. Notwithstanding section 702.5, the commission of a sexual offense under this subparagraph includes any sexual offense referred to in this subparagraph with or to a person under the age of eighteen years.

(4) (a) The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing, medical or mental health treatment, supervision, or other care necessary for the child’s health and welfare when financially able to do so or when offered financial or other reasonable means to do so.

(b) For the purposes of subparagraph division (a), failure to provide for the adequate supervision of a child means the person failed to provide proper supervision of a child that a reasonable and prudent person would exercise under similar facts and circumstances and the failure resulted in direct harm or created a risk of harm to the child.

(c) A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child, however this provision shall not preclude a court from ordering that medical service be provided to the child where the child’s health requires it.

(5) The acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in acts prohibited pursuant to section 725.1. Notwithstanding section 702.5, acts or omissions under this subparagraph include an act or omission referred to in this subparagraph with or to a person under the age of eighteen years.

(6) An illegal drug is present in a child’s body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child.

(7) The person responsible for the care of a child has, in the presence of the child, as defined in section 232.2, subsection 6, paragraph “p”, manufactured a dangerous substance, as defined in section 232.2, subsection 6, paragraph “p”, or in the presence of the child possesses a product containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, with the intent to use the product as a precursor or an intermediary to a dangerous substance.

(8) The commission of bestiality in the presence of a minor under section 717C.1 by a person who resides in a home with a child, as a result of the acts or omissions of a person responsible for the care of the child.

(9) Knowingly allowing a person custody or control of, or unsupervised access to a child or minor, after knowing the person is required to register or is on the sex offender registry under chapter 692A for a violation of section 726.6.

(10) The person responsible for the care of the child has knowingly allowed the child access to obscene material as defined in section 728.1 or has knowingly disseminated or exhibited such material to the child.

b. “*Child abuse*” or “*abuse*” shall not be construed to hold a victim responsible for failing to prevent a crime against the victim.

2A. “*Child protection worker*” means an individual designated by the department to perform an assessment in response to a report of child abuse.

3. “*Confidential access to a child*” means access to a child, during an assessment of an alleged act of child abuse, who is alleged to be the victim of the child abuse. The access may be accomplished by interview, observation, or examination of the child. As used in this subsection and this part:

a. “*Interview*” means the verbal exchange between the child protection worker and the child for the purpose of developing information necessary to protect the child. A child protection worker is not precluded from recording visible evidence of abuse.

b. “*Observation*” means direct physical viewing of a child under the age of four by the child protection worker where the viewing is limited to the child’s body other than the genitalia and pubes. “*Observation*” also means direct physical viewing of a child aged four or older by the child protection worker without touching the child or removing an article of the child’s clothing, and doing so without the consent of the child’s parent, custodian, or guardian. A child protection worker is not precluded from recording evidence of abuse obtained as a result of a child’s voluntary removal of an article of clothing without inducement by the child protection worker. However, if prior consent of the child’s parent or guardian, or an ex parte court order, is obtained, “*observation*” may include viewing the child’s unclothed body other than the genitalia and pubes.

c. “*Physical examination*” means direct physical viewing, touching, and medically necessary manipulation of any area of the child’s body by a physician licensed under chapter 148.

4. “*Department*” means the state department of human services and includes the local, county, and service area offices of the department.

5. “*Differential response*” means an assessment system in which there are two discrete pathways to respond to accepted reports of child abuse, a child abuse assessment and a family assessment. The child abuse assessment pathway shall require a determination of abuse and a determination of whether criteria for placement on the central abuse registry are met. As used in this subsection and this part:

a. “*Assessment*” means the process by which the department responds to all accepted reports of alleged child abuse. An “*assessment*” addresses child safety, family functioning, culturally competent practice, and identifies the family strengths and needs, and engages the family in services if needed. The department’s assessment process occurs either through a child abuse assessment or a family assessment.

b. “*Child abuse assessment*” means an assessment process by which the department responds to all accepted reports of child abuse which allege child abuse as defined in subsection 2, paragraph “a”, subparagraphs (1) through (3) and subparagraphs (5) through (10), or which allege child abuse as defined in subsection 2, paragraph “a”, subparagraph (4), that also allege imminent danger, death, or injury to a child. A “*child abuse assessment*” results in a disposition and a determination of whether a case meets the definition of child abuse and a determination of whether criteria for placement on the registry are met.

c. “*Family assessment*” means an assessment process by which the department responds to all accepted reports of child abuse which allege child abuse as defined in subsection 2, paragraph “a”, subparagraph (4), but do not allege imminent danger, death, or injury to a child. A “*family assessment*” does not include a determination of whether a case meets the definition of child abuse and does not include a determination of whether criteria for placement on the registry are met.

6. “*Health practitioner*” includes a licensed physician and surgeon, osteopathic physician and surgeon, dentist, optometrist, podiatric physician, or chiropractor; a resident or intern in any of such professions; a licensed dental hygienist, a registered nurse or licensed practical nurse; a physician assistant; and an emergency medical care provider certified under section 147A.6.

7. “*Mental health professional*” means a person who meets the following requirements:

a. Holds at least a master’s degree in a mental health field, including but not limited to psychology, counseling, nursing, or social work; or is licensed to practice medicine pursuant to chapter 148.

b. Holds a license to practice in the appropriate profession.

c. Has at least two years of postdegree experience, supervised by a mental health

professional, in assessing mental health problems and needs of individuals used in providing appropriate mental health services for those individuals.

8. “*Person responsible for the care of a child*” means:

a. A parent, guardian, or foster parent.

b. A relative or any other person with whom the child resides and who assumes care or supervision of the child, without reference to the length of time or continuity of such residence.

c. An employee or agent of any public or private facility providing care for a child, including an institution, hospital, health care facility, group home, mental health center, residential treatment center, shelter care facility, detention center, or child care facility.

d. Any person providing care for a child, but with whom the child does not reside, without reference to the duration of the care.

9. “*Registry*” means the central registry for child abuse information established in section 235A.14.

[C66, 71, 73, 75, 77, §235A.2; C79, 81, §232.68]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1207, §1, 2; 85 Acts, ch 173, §2; 86 Acts, ch 1177, §1; 87 Acts, ch 153, §1, 2; 89 Acts, ch 24, §1; 89 Acts, ch 89, §16; 89 Acts, ch 230, §3, 4; 93 Acts, ch 76, §1; 93 Acts, ch 93, §2; 94 Acts, ch 1130, §1, 2; 95 Acts, ch 41, §24; 95 Acts, ch 108, §17; 95 Acts, ch 182, §7; 96 Acts, ch 1092, §2; 97 Acts, ch 35, §4, 5, 25; 97 Acts, ch 176, §1; 2001 Acts, ch 46, §2; 2001 Acts, ch 131, §1; 2003 Acts, ch 44, §49; 2004 Acts, ch 1116, §6; 2005 Acts, ch 158, §20; 2008 Acts, ch 1088, §113 – 115; 2009 Acts, ch 119, §64; 2010 Acts, ch 1151, §2; 2011 Acts, ch 28, §1, 2; 2013 Acts, ch 115, §1, 19

Referred to in §20.31, 135.119, 135L.3, 232.2, 232.69, 232.70, 232.71B, 232.71D, 232.76, 235A.18, 235B.3, 280.17, 915.35, 915.84

[T] Subsection 5 takes effect January 1, 2014; transition to full implementation may begin prior to that date; 2013 Acts, ch 115, §19

[T] NEW subsection 5 and former subsections 5 – 8 renumbered as 6 – 9