

Child and Family Services Policy Manual: Reference Information Definitions

Definitions

ABANDONMENT: Parent leaves the child under circumstances that make it reasonable to believe that the parent does not intend to resume care of the child in the future **OR** willfully surrenders physical custody for six months and during that time does not manifest to the child and person having physical custody of the child a firm intention to resume custody or make permanent legal arrangements for the child **OR** parent is unknown and has been unknown for 90 days and reasonable efforts to identify and locate the parent have failed **OR** the voluntary surrender by a parent of a newborn who is no more than 30 days old to an emergency services provider. The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services. (202-2; 302-6; 305-2)

ACTIVE EFFORTS: Requirement under ICWA to make active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family prior to removal. Active efforts should involve and use the available resources of the extended family, the tribe, Indian social services agencies and individual Indian care givers. (302-7; 305-1)

ADJUDICATION: The judicial determination, after a hearing, that the child has been abused, neglected, or abandoned. (302-3)

ADJUDICATORY HEARING: The hearing held to determine whether or not the child is a youth in need of care. (301-2; 302-3)

ADOPTEE: An adopted person or a person who is the subject of an adoption proceeding that is intended to result in the adoptee becoming the legal child of another person. (601-1)

ADOPTION: The act of creating the legal relationship between parent and child when it does not exist genetically. It is the permanent legal transfer of all parental rights from one person or couple to another person or couple. (601-1)

ADOPTION RECORDS: All documents, exhibits, and data about an adoption. (603-9)

ADOPTIVE PARENT: An adult who has become the mother or father of a child through the legal process of adoption. (601-1)

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AFFIDAVIT: A written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation. Black's Law Dictionary

AGENCY: A child placing agency licensed by the state of Montana pursuant to Title 52, chapter 8 that is expressly empowered to place children preliminary to a possible adoption. (601-1)

ASSISTED OR SUBSIDIZED GUARDIANSHIP: Occurs when a child meets the statutory conditions precedent to guardianship and is approved for financial and/or medical assistance. (407-2; 407-3)

BABY DOE MEDICAL NEGLECT: Failure to respond to an infant's (**less than one year or hospitalized continuously from birth**) life-threatening conditions by providing appropriate treatment that, in the physician's judgment, will be most likely to be effective in ameliorating or correcting all life-threatening conditions. Does not necessitate treatment if the infant is irreversibly comatose; treatment would merely prolong dying; or treatment would be inhumane. (202-2)

BEST INTERESTS OF THE CHILD: The physical, mental and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child. [Mont. Code Ann. § 41-3-102(5)]

BEYOND A REASONABLE DOUBT: In evidence means fully satisfied, entirely convinced, satisfied to a moral certainty and the equivalent of the words clear, precise and indubitable. Black's Law Dictionary

BIRTH PARENT: The woman who gave birth to the child or the father of genetic origin of the child. (601-1)

BIRTH PARENT COUNSELING: The statutorily required counseling (a minimum of 3 hours) on, among other things, adoption procedures and the consequences of a relinquishment, to be completed prior to execution of a relinquishment of parental rights and consent to adopt. (303-2)

BUILDING SKILLS FOR ADULTHOOD SERVICES: See Montana Foster Care Independence Program.

BUSINESS ASSOCIATE means a person or organization that performs a function on behalf of the Department that requires the use or disclosure of protected health information and relates to the health care component activities of the Department. Such functions include claims processing, utilization review, quality assurance, billing, benefits management, legal, actuarial, accounting, consulting, data aggregation, management, administration, accreditation, or financial services. Business associates do not include members of the DPHHS workforce. An example of a business associate is a foster care contractor. (501-2)

BUSINESS ASSOCIATE AGREEMENT means a written agreement that specifies the uses and disclosures of protected health information that the Department requires of the business associate. (501-2)

CA/N means child abuse or neglect, or abandonment. (501-2)

CASE RECORDS or CASE RECORDS OF THE DEPARTMENT according to statute and rule means any records maintained by the Department relating to reports and investigations child abuse, neglect or abandonment. This includes photographs, video and audio tapes, case notes, correspondence, evaluations, and interviews. The term does not include confidential reports or evaluations provided to the department by other professionals, or licensing or registration files of providers licensed, registered or certified by the department. The term “case records” also does not include Criminal Justice Information. (501-2, 502-1)

CHEMICAL DEPENDENCY COUNSELOR: A counselor certified by the Commerce Department. (406-4)

CHILD OR YOUTH (MINOR): Any person under 18 years of age. Mont. Code Ann. 41-1-101.

CHILD ABUSE OR NEGLECT means:

- actual or psychological harm to a child;
- substantial risk of physical or psychological harm to a child; or
- abandonment.

The term includes:

- actual physical or psychological harm to a child or

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substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare; or

- exposing a child to the criminal distribution of dangerous drugs, as prohibited by Mont. Code Ann. § 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by Mont. Code Ann. § 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by Mont. Code Ann. § 45-9-132.

DANGEROUS DRUGS means the compounds and substances described as dangerous drugs described in Mont. Code Ann. § 50-32-2.

- In proceedings in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as "serious emotional or physical damage to the child" as used in 25 U.S.C. 1912(f).

The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child. (202-3, 202-5, 501-2)

CHILD CARE AGENCY: An agency providing substitute care for 13 or more children in a residential setting. (401-2)

CHILD PLACING AGENCY means any corporation, partnership, association, firm, agency, institution or person who places or who arranges for the placement of any child with a family, person or facility not related by blood or marriage, either for foster care or for adoption. (502-1)

CHILD PROTECTION TEAM: Interdisciplinary team established by statute and convened as needed to assist in assessing the needs of the family, formulating and monitoring a treatment plan and coordinating services for the child and family. (104-1)

CHILD PROTECTIVE SERVICES ALERT: A notification from the Division's state office to all local offices that a child may be in danger. (203-1)

CHILD'S SOCIAL HISTORY: The form (DPHHS-CFS-107,

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Birth Family Social and Medical History, completed by the child's child protection specialist in conjunction with the birth parents or significant others that includes relevant family background; education, health, mental health, religion and social information; tribal affiliation, if any; current and past living arrangements (placement history). (601-1)

CLEAR AND CONVINCING EVIDENCE: That proof which results in reasonable certainty of the truth of the ultimate fact in controversy - where the truth of the facts asserted is highly probable. Black's Law Dictionary

CLOSED WITHOUT FINDINGS: Unable to locate, family left the area before the investigation was completed, or investigation began but was never completed due to court order, administrative directive, etc. No determination made. (202-4)

CLOTHING ALLOWANCE: Payments made on behalf of a foster child for clothing to ensure that the child in care has at least a basic wardrobe. (405-6)

CONCURRENT FAMILY: A family approved by the department both as a foster family and an adoptive (or guardianship) family who will work with the placing agency and the child's birth family toward the goal of reunification while simultaneously committing to becoming a permanent family for the child. (402-3)

CONCURRENT PLACEMENT: The planned placement of a child with a resource family. (402-3)

CONCURRENT PLANNING: To work toward reunification of the child with his/her family while at the same time developing and implementing an alternative permanent plan. (402-3)

CONCURRENT PLANNING HOME: See Concurrent Family. (402-3)

CONFIDENTIAL INFORMATION means information in case records, that is restricted by law from being disclosed. (501-2)

CONFIDENTIAL ADOPTION: Occurs when there is no direct contact between the birth and adoptive families. Confidential adoption preserves the confidentiality and anonymity of the adoptive parents and the birth parents and is most appropriate

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in cases where the parent(s) pose a serious continuing risk to the child's health, safety and welfare. (601-1)

CONFIDENTIAL INTERMEDIARY: A person certified by the department and under contract with or employed by a non-profit entity with expertise in adoption. (603-9)

COURT: A court of record in a competent jurisdiction and in Montana means a district court or a tribal court. (601-1)

COURT-ORDERED PROTECTIVE SERVICES: Those services provided to a child and family pursuant to a court order. (202-1;302-3;302-4;302-5; 302-6)

CUSTODIAL PARENT: the parent who has physical custody of the child and the child lives with. This may or may not be the result of a parenting plan or court order.

DAY CARE FACILITY means a person, association, or place, incorporated or unincorporated, that provides supplemental parental care on a regular basis. It includes a family day care home, group day care home, or a day care center. It does not include a person who limits care to children who are related to him or her by blood or marriage or are under his or her legal guardianship, or any group facility established chiefly for educational purposes, unless the state is making day care payments to that person or facility. (501-2)

DATE A CHILD IS CONSIDERED TO HAVE ENTERED FOSTER CARE: The earlier of the date of the first judicial finding that the child has been subjected to child abuse or neglect or the date that is 60 calendar days after the date on which the child is removed from the home. (301-2)

DEPARTMENT: The Department of Public Health and Human Services as provided for in Mont. Code Ann. §2-15-2201.

DEPRIVATION: The ongoing lack of parental care and control of a child because of death, continued absence from the home, mental or physical incapacity or unemployment of the parents. **Deprivation exists only from the parent(s), birth or adoptive.** (405-1)

DESIGNATED RECORD SET See Protected Health Information. (501-2)

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DISCLOSURE means to release for inspection or copying, or to make known or reveal in any manner any information contained in case records (per Mont. Admin. R. 37.47.602, Mont. Code Ann. § 41-3-208).

DISCLOSURE under HIPAA means the release, transfer, provision of, access to or divulging in any other manner of information outside the entity holding the information. (501-2)

DISPOSITIONAL HEARING: If the child is adjudicated a youth in need of care, evidence is presented during the dispositional hearing to assist the court in making a decision regarding the resolution of the case which best protects the welfare of the child. (301-2)

DOMESTIC VIOLENCE (PARTNER OR FAMILY MEMBER ASSAULT): Bodily injury inflicted on a partner or family member or causing reasonable apprehension of bodily injury to a partner or family member. Bodily injury is physical pain, illness or any impairment of physical condition and includes mental illness or impairment. [See Psychological Abuse or Neglect (202-2) and Mont. Code Ann. (45-5-206)]

DOMICILE OR RESIDENCE (ICWA DEFINITION): A place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which one returns when not working or attending school. Generally, the residence of the parent with whom the child customarily resides is the residence of the child. Usually, the child's residence will be where the child is physically living. However, if s/he is physically residing off the reservation with relatives on a temporary basis, the child's residence may be the residence of the parent or custodian with whom s/he customarily resides. (305-1)

EDUCATIONAL NEGLECT: Complete failure to educate or enroll a school-aged child in an education program. (202-2)

EMERGENCY ASSISTANCE SERVICES: Services provided for situations involving abuse and/or neglect requiring the removal of the child, placing a child protection specialist in the home to prevent the removal, expediting the early return of the child to the home or preventing the need for protective services. These are 100% federal TANF block grant funds. (405-3)

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EMERGENCY PLACEMENT: The immediate removal of a child from the home when the child protection specialist determines that a child is in immediate or apparent danger of harm. (302-1)

EMERGENCY PROTECTIVE SERVICES: Those services provided to a child and family when the child protection specialist determines, based upon a thorough investigation, that the child cannot safely remain in the home without the provision of the service (out-of-home placement). (202-1;302-1)

EMERGENCY SERVICES PROVIDER: A uniformed or otherwise identifiable employee of a fire department, hospital, or law enforcement agency when the individual is on duty inside the premises of the fire department, hospital, or law enforcement agency; or any law enforcement officer who is in uniform or is otherwise identifiable. (305-2)

EPSDT: (Early Periodic Screening, Diagnosis and Treatment) Medically necessary diagnostic treatment provided to Medicaid eligible children under age 21 as a result of an EPSDT screening performed by a medical provider. (405-5; 405-7; 405-8; 405-9)

EXPOSURE TO DRUG DISTRIBUTION/MANUFACTURE: Exposing a child to the criminal distribution of dangerous drugs, the criminal production or manufacture of dangerous drugs, or the operation of an unlawful clandestine laboratory. "Dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2. (202-2)

EXTENDED FAMILY MEMBER (ICWA DEFINITION): Defined by the law or custom of the Indian Child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt, uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. Extended family members include non-Indian relatives. (305-1)

FAILURE TO THRIVE/MALNUTRITION: Physician's diagnosis of failure to thrive or malnutrition of a child. (202-2)

FAIR HEARING: A hearing before a Hearings Officer in

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accordance with the fundamental principles that inhere in due process of law which require, at a minimum, notice and an opportunity to respond. (106-1)

FAMILY GROUP DECISIONMAKING MEETING: A meeting that involves family members in either developing treatment plans or making placement decisions, or both. The meeting also may include family members, support people, or family advocates to discuss and plan for the well-being of the family's children. (103-1)

FATALITY: Death by actual or possible abuse or neglect. (202-2)

FOSTER CARE: Full-time, 24-hour care of a child in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction and, if necessary, treatment to children who are removed from or without the care and supervision of their parents or guardian. (402-2)

FOSTER CARE REVIEW COMMITTEE: Appointed by the district court judge with five to seven members – the purpose of the review is to ensure the child's right to expedited placement in a permanent home. (409-1)

FOSTER CARE SUPPORT SERVICES: Services such as clothing allowance, diaper allowance, respite care or special needs allowance paid on behalf of a foster child who has a documented need for such services. (405-11)

FOSTER PARENT ADOPTION: Occurs when foster parents are approved by the department to adopt a child when the adoption is in the best interest of the child. (602-5)

GROUP HOME: Facility offering substitute care of 7 to 12 children/ youth. (401-2)

GUARDIAN: See Legal Guardian. (302-4; 407-2, 407-3; 407-4)

GUARDIAN AD LITEM: A special guardian appointed by the court in which a Child Abuse and Neglect proceeding is pending to represent the subject child in that particular proceeding and the status of guardian ad litem exists only in that specific proceeding in which the appointment occurs. Black's Law

Dictionary

GUARDIANSHIP: See Legal Guardianship. (302-4; 407-2, 407-3; 407-4)

HEALTH CARE INFORMATION means information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identify of an individual, including one who is deceased, and that relates to that individual's health care or status.

- The term includes any record of disclosures of health care information and any information about an individual received pursuant to state law or rules relating to communicable disease.
- The term does not include vital statistics information gathered under Mont. Code Ann. § Title 50, chapter 15.

HEALTH CARE PROVIDER under HIPAA means a provider of medical or health services as defined in 42 USC 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.

HEALTH INFORMATION per the Health Insurance Portability and Accountability Act (HIPAA) means any information, whether oral or recorded in any form or medium, that is created by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse that:

- Relates to the past, present, or future physical or mental health or condition of health care to an individual; or
- Relates to the past, present, or future payment for the provision of health care to an individual.

INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION is a subset of Health Information including demographic information, collected from an individual that is created or received by a health care provider, health plan, employer, or health care clearinghouse that:

- Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; and

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- Relates to the past present, or future payment for the provision of health care to individual; and
- Identifies the individual; or
- There is a reasonable basis to believe the information can be used to identify the individual.

HIPAA means **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)**. This includes the U.S. Department of Health and Human Services publication of a final regulation in the form of the Privacy Rule in December 2000, which became effective on April 14, 2001. This rule set national standards for the protection of health information. By the compliance date of April 14, 2003, covered entities must implement standards to protect and guard against the misuse of individually identifiable health information.

IN CAMERA INSPECTION means a matter is heard “*in camera*” in a judge’s private chambers or in a courtroom from which all spectators have been excluded. Black’s Law Dictionary

INCARCERATION OF A PARENT: Parent in prison or jail and did not make appropriate plans for the child. Incarceration alone does not constitute neglect. (202-2)

INDEPENDENT LIVING SERVICES: See Montana Foster Care Independence Program (408-1)

INDIAN CHILD: An unmarried person under 18 who is either a member of an Indian tribe or eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe as determined by the tribe. (305-1)

INDIAN CHILD’S TRIBE: The tribe in which the child is a member or is eligible for membership; in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the tribe with which the Indian child has more significant contacts as determined by the court; or the tribe which recognizes the child as a tribal member. (305-1)

INDIAN CUSTODIAN: An Indian person who has legal custody of an Indian child under tribal law or custom, or under state law; or an Indian person to whom temporary physical care, custody and control has been transferred by the parent of such child. (305-1)

INDICATED: Maltreatment occurred, but the perpetrator of the maltreatment is not identified as a “person legally responsible for the welfare of a child”. For example, an uncle commits an act of sexual abuse while visiting his niece. (202-4)

INDIGENT YOUTH: A person under age 18 who is receiving Medicaid, is in the custody of CFSD or DOC and has no other source of payment, or a youth whose family income is under 200% of federal poverty level as determined by the Addictive and Mental Disorders Division. (406-4)

INITIAL DETERMINATION: The initial assessment of a child's financial eligibility for IV-E foster care. (405-1)

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN: A uniform law which has been enacted by all states, the Virgin Islands, and the District of Columbia which establishes uniform procedures for the interstate placement of children and fixes responsibilities for those involved in placing the child. (402-7)

KINSHIP ADOPTION: The adoption of a child by relatives or other kin who have been approved by the department when the adoption of the child has been determined to be in the best interest of the child. (602-4)

KINSHIP CARE HOME: An unlicensed home in which substitute care is provided by relatives, members of the child/family's tribe, godparents, or stepparents or by whomever a child, child's parents and family ascribe a family relationship and in which the child has had a significant emotional tie to the provider that existed prior to the agency's involvement with the child/family. (402-4)

KINSHIP FOSTER HOME: A youth care facility in which substitute care is provided to one to six children or youth other than the kinship parent's own children, stepchildren, or wards. The substitute care may be provided by any of the following:

- a) a member of the child's extended family;
- b) a member of the child's or family's tribe;
- c) the child's godparents;
- d) the child's stepparents;
- e) or a person to whom the child, child's parents, or family ascribe a family relationship and with whom the child has had a significant emotional tie that existed prior to the

department's involvement with the child or family.

LEGAL GUARDIAN: A person who has qualified as a caretaker of a child/youth in the custody of the Department pursuant to court appointment. (302-4; 407-2, 407-3; 407-4)

LEGAL GUARDIANSHIP: A judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: Protection, education, care and control of the child, custody of the child, and decision-making. (302-4; 407-2, 407-3; 407-4)

LEGAL RISK PRE-ADOPTIVE PLACEMENT: The placement of a foster child with people who have been approved as an adoptive resource, pending the child becoming legally free for adoption. (407-1; 602-6)

LIMITED EMANCIPATION: A status conferred on a youth by a court under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older. (305-3)

LONG-TERM CUSTODY: Court can award if the court finds that reunification of the child with the child's parent or guardian is not in the best interests of the child and statutory conditions precedent are met. Used when neither adoption nor guardianship are in the child's best interests as permanent placement options. Child must be in a planned permanent living arrangement. (302-5; 407-5)

MAINTENANCE PAYMENT: A payment to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, with respect to a child and reasonable travel to the child's home for visitation. (405-1)

MEDICAL NEGLECT: Failure of parent, guardian or other person responsible for a child's welfare to provide adequate health care although reasonably able to do so. Adequate health care for a child means medical or non-medical remedial care if such care is covered by medical insurance. (202-2)

MEDICAID REIMBURSED THERAPEUTIC SERVICES:

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Services provided by therapeutic youth group homes or therapeutic family care services for which Medicaid is the funding source. (406-2)

MONTANA FOSTER CARE INDEPENDENCE PROGRAM:

Services intended to assist eligible youth in attaining those attitudes, values, skills, and experience necessary to live in a community as a responsible, self-sufficient adult. (408-1)

NEWBORN: An infant who a physician reasonably believes to be no more than 30 days old. (305-2)

NON-Custodial Parent: a parent who maintains his/her parental rights to a child but does not have physical custody of the child. The non-custodial parent may have visitation but the child does not live in his/her home. This may or may not be the result of a parenting plan or court order.

NON-Offending Parent: a parent whose child is the victim of abuse or neglect, however this parent did not inflict the abuse or neglect upon the child. The parent may or may not be the custodial parent but most often, the child did not reside-with the non-offending parent during the time the abuse or neglect occurred.

OPEN ADOPTION: An adoption in which the birth parents have no legal or nurturing rights to the child but may have continuing communication and/or knowledge of the child's whereabouts and welfare. (601-1)

PARENT: The birth or adoptive mother, or the birth, adoptive or legal father whose parental rights have not been terminated. See also Birth Parent. (601-1)

PARENT (ICWA DEFINITION): Any biological parent or parents of an Indian child, or any Indian person who has legally adopted an Indian child, including adoptions under tribal law and custom. Does not include the unwed father when paternity hasn't been acknowledged or established. (305-1)

PARENT: A biological or adoptive parent or stepparent. [Mont. Code Ann. § 41-3-102(11)]

PERMANENT PLACEMENT: Reunification of the child with the

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child's parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age. (201-2)

PERMANENCY PLAN: The plan to identify a family that will make a permanent, lifetime commitment to the child and will provide a planned permanent living arrangement for the child. (301-2; 402-2)

PERMANENCY HEARING: The hearing required to determine the permanency plan for a child in foster care. (301-2)

PERMANENT LEGAL CUSTODY: Grants permanent responsibility for care, custody and control of the child to a person or agency. (302-6)

PERSONAL REPRESENTATIVE means under the HIPAA Privacy Rule, a person authorized to act on behalf of the individual in making health care related decisions, which may include disclosure of the individual's protected health information. 501-2

PERSON RESPONSIBLE FOR A CHILD'S WELFARE: The child's parent, guardian, foster parent or an adult who resides in the same home in which the child resides; a person providing care in a day-care facility; an employee of a public or private residential institution, facility, home, or agency; or any other person responsible for the child's welfare in a residential setting. (202-3; 202-5; 501-3)

PHYSICAL ABUSE: An intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death. (202-2)

PHYSICAL NEGLECT: Failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, appropriate clothing related to weather conditions, failure to provide cleanliness and general supervision, or both or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to

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the child. (202-2)

PHYSICAL OR PSYCHOLOGICAL HARM TO A CHILD: The harm that occurs whenever the parent or other person responsible for the child's welfare:

- a) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;
- b) commits or allows to be committed sexual abuse or exploitation of the child;
- c) induces or attempts to induce a child into giving untrue testimony that the child or another child was abused or neglected by a parent or person responsible for the child's welfare;
- d) causes malnutrition or failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;
- e) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or
- f) abandons the child.

The term does not include a youth not receiving supervision solely because of parental inability to control the youth's behavior. Mont. Code Ann. § 41-3-102.

PIPPS PROGRAM (Preventive, In-Home, Post-Placement Services): Designed to provide the flexibility needed to fund special services not available under other Department programs. (110-1)

PLACING PARENT: A parent who is voluntarily making a child available for adoption. (601-1; 605-1)

PLACING CHILD PROTECTION SPECIALIST (IV-E): A child protection specialist, juvenile parole officer, contracted IV-E tribal social worker or probation officer responsible for placing a child into foster care. (402-2; 405-1)

PLANNED PERMANENT LIVING ARRANGEMENT: Long-term, planned foster care with a foster family, including a relative of the child, with whom a youth has lived for at least one year or the child meets one of the conditions listed in Mont.

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Code Ann. § 41-3-445. Long-term custody of the child is a condition precedent for a planned permanent living arrangement. (407-5)

POST PLACEMENT EVALUATION: A written report in which specific elements required by law are addressed, including a recommendation for or against finalizing of the adoption. The evaluation is usually completed by the designated agency staff who has supervised the placement of the child. (603-5)

PRE-PLACEMENT EVALUATION (ADOPTIVE HOME STUDY): The home study process conducted by the Department, a licensed child placing agency or a licensed clinical social worker that assists a prospective adoptive parent or family to assess its own readiness to adopt and assess whether the prospective adoptive parent or family and home meet applicable requirements. (602-2)

PREPONDERANCE OF EVIDENCE: Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it. Black's Law Dictionary

PROBABLE CAUSE: Reasonable cause; having more evidence for than against. Black's Law Dictionary

PROFESSIONAL SUPPORT PERSON: A person who has experience and training related to the type of medical problem for which specialized foster parents are expected to provide care. (406-1)

PROTECTED HEALTH INFORMATION (PHI) means Individually Identifiable Health Information that is transmitted electronically in any medium or maintained in any medium. PHI does not include educational records covered by the Family Educational Right and Privacy Act, 20 USC 1232, the student records held in post-secondary institutions or the records of students 18 years or older. PHI also does not include employment records held by a DPHHS in its role as employer.

- All PHI located in the case records containing reports of child abuse or neglect may be considered the division's **Designated Record Set** under HIPAA.

DESIGNATED RECORD SET means 1) A group of

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records maintained by or for a covered entity that is:

- The medical records and billing records about individuals maintained by or for a covered health care provider;
- The enrollment, payment claims adjudication, and case or medical management record systems maintained by or for a health plan; or
- Used, in whole or in part, by or for the covered entity to make decisions about individuals.

The term *record* means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used or disseminated by or for a covered entity. (501-2)

PSYCHOLOGICAL ABUSE OR NEGLECT: Severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including **acts** of violence against another person residing in the child's home. The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim. (202-2)

PROTECTIVE SERVICES: Services provided by the child protection specialist

- 1) to enable a child alleged to have been abused or neglected to remain safely in the home;
- 2) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or
- 3) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

The term includes emergency protective services, voluntary protective services, and court-ordered protective services. (102; 302-1; 302-6)

PUBLIC HEALTH SERVICE ACT was formerly the Drug Abuse Prevention, Treatment and Rehabilitation Act of 1970 (42 CFR Part 2). It states that the records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, training,

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treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under this Act. These regulations are intended to insure that an alcohol or drug abuse patient in a federally assisted alcohol or drug abuse program is not made more vulnerable by reason of the availability of his or her patient record than an individual who has an alcohol or drug problem and who does not seek treatment. (501-2)

QUALIFIED ALIEN: An alien legally admitted to the U.S. whose status may include refugee, asylee, deportation withheld, parolee, conditional entry, Cuban/Haitian, Amerasian, battered spouse or child, Canadian Indians, enrolled Indians, or aliens lawfully admitted for permanent residence. The Office of Public Assistance will determine if the alien meets the criteria for a qualified alien. (305-1)

QUALIFIED EXPERT WITNESS (ICWA DEFINITION): A member of the Indian tribe who is recognized by the tribal community as knowledgeable of tribal customs pertaining to family organization and child rearing practices; or a lay expert witness having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social, cultural and child rearing practices of child's tribe; or a professional person who has substantial experience in providing services to children and families and who possess significant knowledge of and experience with Indian culture, family structure, and child rearing practices in general. (305-1)

REASONABLE CAUSE TO SUSPECT: Cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person. (202-3)

REASONABLE EFFORTS (Standard): Only the services and activities that prevent removal of the child from his/her home or affect the reunification plan are the services/activities to be evaluated in determining the reasonable efforts findings. The adequacy of services will be judged by their appropriateness in addressing the needs that caused the child(ren) to be removed from the home. While some services may be a good idea and some very important, the finding is determined based on the offer to provide the services that affect the reunification. (302-7;

See also Active Efforts for ICWA cases)

RECORDS MANAGEMENT: The systematic application of efficient methods to manage the creation, utilization, maintenance, retention, disposal and preservation of records. (501-2, 502-1)

REDETERMINATION: The reassessment of a child's financial eligibility and whether or not deprivation still exists in the specified caretaker relative's home from which the child was removed. Example: If the child was removed from the aunt's home (neither mom nor dad lived there then nor now), the deprivation of an absence parent exists for the child. (405-1)

RELINQUISHMENT: The informed and voluntary release in writing by which the parent voluntarily surrenders his/her rights to and responsibility for a child to an agency or individual. (303-2)

REPORT OF CHILD ABUSE OR NEGLECT: A referral made alleging that a child is an abused or neglected child. (501-2)

RESIDENTIAL ALCOHOL AND DRUG TREATMENT: Chemical dependency treatment provided either in a hospital licensed by DPHHS or in-patient hospital care or in-patient free standing component approved by the DPHHS pursuant to Title XX. (406-4)

RESPITE CARE: Short term supervision of care of a foster child in an emergency or on an intermittent basis. Respite care includes but is not limited to homemaker services, child care, and emergency care either in the home or out of the home. Note: Respite Care is **not** an allowable IV-E activity. (405-10; Mont. Code Ann. § 52-2-602)

RESPITE CARE ALLOWANCE: Payments made on behalf of a foster child for assistance necessary to provide foster parents with relief from the daily care requirements of foster children whose mental or physical condition requires special or more intense care. (405-5; 405-10)

SEAL: To make secure against access and withhold for disclosure. (501-2)

SEXUAL ABUSE BY PERSON RESPONSIBLE FOR THE

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WELFARE OF A CHILD: The commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, sexual abuse, ritual abuse, or incest of a child by a parent, guardian, adult residing in the child's home, foster parent, day care staff, employee of an institution or residential setting. (202-2)

SEXUAL EXPLOITATION OF A CHILD: Allowing or encouraging a child to engage in prostitution or films, photographs, use of a child in an exhibition of sexual conduct, etc., i.e., 'Kiddy porn'. (202-2)

SHELTER CARE FACILITY: A youth care facility that regularly receives children under temporary conditions until the court, probation office, department or other appropriate social services agency has made other provisions for the child's care .(401-2)

SHOW CAUSE HEARING: The hearing held within 20 days, excluding weekends and holidays, of the filing of an initial child abuse and neglect petition. (301-2)

SPECIAL NEEDS ALLOWANCE: Payments made on behalf of a foster child who requires services or equipment which is not available through the EPSDT Program or from any other source. (405-5)

SPECIALIZED FOSTER HOME: A licensed foster home in which care and treatment is provided for children who have problems that cannot be adequately addressed in regular foster care. (406-1)

SPECIFIED CARETAKER RELATIVE: A person who has day-to-day care and control of the child and is related by blood, marriage, or adoption who is within the fifth degree of kinship to the child. (405-1)

STIPULATION: A voluntary agreement signed by the parent(s) in which the parent(s) agree to specific facts and submitted to the court to support the petition filed by the Department. (303-1)

SUBJECT: The child alleged to have been abused or neglected or the parents of the child. (501-2)

SUBSIDIZED ADOPTION: Occurs when a special needs child is approved for financial and/or medical assistance. It allows

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families to adopt special needs children who need additional resources to be maintained in the family. (604-1)

SUBSTANTIATED OR INDICATED ABUSE/ NEGLECT THAT RESULTS IN THE DEATH OF THE VICTIM: Refers to death resulting from abuse/neglect. (202-4)

SUBSTANTIATED REPORTS OF ABUSE, NEGLECT, EXPLOITATION: Upon investigation, the child protection specialist has determined that the facts showing that abuse, neglect, sexual abuse, or exploitation occurred are more convincing than the facts offered to show the abuse, neglect, sexual abuse, or exploitation did not occur. (202-4)

SUBSTITUTE CARE: Full-time care of a child in an out-of-home setting for the purpose of providing food, shelter, security, safety, guidance and, if necessary, treatment of children who are without the care and supervision of their parents or guardians. (401-1)

SUPPLEMENTAL SERVICES ALLOWANCE: Payments made on behalf of a foster child to cover those expenses that would not be covered by the regular foster care payment, Medicaid, school district or other funding sources. (405-8)

SURRENDER: To leave a newborn with an emergency services provider without expressing an intent to return for the newborn. (305-2)

TEMPORARY INVESTIGATIVE AUTHORITY: Judicial authority to conduct an intensive investigation into suspected child abuse and neglect under which the court grants specified relief. Can only be granted for 90 days. (302-2)

TEMPORARY LEGAL CUSTODY: The legal status created by an order of the court that gives a person or agency the right and responsibility for the care, custody and control of a child on a temporary basis. Can only be granted for six months with one six-month extension. (302-3)

TERMINATION OF PARENTAL RIGHTS: The legal rights of legal parents are terminated by a court of competent jurisdiction. (302-6)

THERAPEUTIC FAMILY CARE/THERAPEUTIC FAMILY

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FOSTER HOME: Treatment services provided in a family setting. (406-2; 406-3)

THERAPEUTIC YOUTH GROUP HOME: A community or campus-based treatment group home. (406-2; 406-3)

THIRD PARTY ABUSE: Harm to a child's health or welfare that is committed by any party not considered a "person responsible for the welfare of a child." (202-7)

TREATMENT PLAN: A written agreement between the Department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. (303-1; 302-6)

UNFOUNDED REPORT OF ABUSE, NEGLECT, SEXUAL ABUSE OR EXPLOITATION: After an investigation, the investigating person has determined the reported child abuse, neglect, or exploitation has not occurred. (202-4)

UNSUBSTANTIATED REPORT OF ABUSE, NEGLECT, SEXUAL ABUSE OR EXPLOITATION: After an investigation, the investigator was unable to determine by a preponderance of the evidence that the reported abuse, neglect, or exploitation has occurred. (202-4)

USE means, with respect to individually identifiable health information (under HIPAA), the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information. (501-2)

VISITATION PLAN: A plan (based on the child's age and developmental level) that insures frequent, meaningful contact between the parent(s) and the child. (402-3)

VOLUNTARY PROTECTIVE SERVICES: Services provided to a child and family pursuant to a written and executed voluntary protective services agreement designed to prevent the necessity for court action. (201-1; 302-1;302-7; 402-1)

YOUTH FOSTER HOME: See foster home. (401-2)

YOUTH GROUP HOME: See group home. (401-2)

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YOUTH IN NEED OF CARE: A youth who has been adjudicated or determined, after a hearing, to be abused, neglected, or abandoned by the act or omission of a person responsible for the child's welfare in a residential setting. (302-3)

YOUTH SHELTER CARE FACILITY: See shelter care. (401-2)

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