

**DIVISION OF CHILDREN AND FAMILY SERVICES  
ADMINISTRATIVE MEMO #1-2011**

**To:** All Division of Children and Family Services Staff

**From:** Edward H. Matney, Policy Section Administrator *Edward H. Matney*  
Division of Children and Family Services

**Approved by:** Todd L. Reckling, Director *Todd L. Reckling*  
Division of Children and Family Services  
Department of Health and Human Service

**Date:** February 4, 2011

**Re:** Revised Adult and Child Abuse and Neglect Screening Definitions

**Effective Date:** Immediately

**Duration:** Until Revised

**Contact:** Suzanne Schied, CFS Program Specialist  
[suzanne.schied@nebraska.gov](mailto:suzanne.schied@nebraska.gov)  
402-471-9245;  
Lindy Bryceson, CFS Administrator  
[lindy.bryceson@nebraska.gov](mailto:lindy.bryceson@nebraska.gov)  
402-471-9733

**Purpose:**

Adult and child abuse and neglect screening definitions have been revised to more clearly identify when it is appropriate for the Department to investigate and assess vulnerable adult and child safety.

**Action Required:**

Intake staff will make screening decisions based on the revised definitions, which are attached.

**Abuse** means any knowing, intentional or negligent act or omission on the part of a caregiver, a vulnerable adult, or any other person which results in physical injury, unreasonable confinement, cruel punishment, sexual abuse, exploitation, or denial of essential services to a vulnerable adult. *Neb. Rev. Stat. § 28-351.*

## ABUSE

**Physical Injury** means damage to bodily tissue caused by nontherapeutic conduct, including, but not limited to, fractures, bruises, lacerations, internal injuries, or dislocations, and shall include, but not be limited to, physical pain, illness, or impairment of physical function. *Neb. Rev. Stat. § 28-363.*

**Unreasonable Confinement** means confinement which intentionally causes physical injury to a vulnerable adult. *Neb. Rev. Stat. § 28-370.* Unreasonable confinement shall include the use of chemical or bodily restraints without a legal authority or outside of state/federal regulations; the improper use of medications resulting in a person becoming physically incapacitated or confined; and False Imprisonment.

**False Imprisonment** means knowingly restraining a person without legal authority; or restraining or abducting another person under terrorizing circumstances or under circumstances which expose the person to the risk of serious bodily injury; or with intent to hold him or her in a condition of involuntary servitude. *Neb. Rev. Stat. § 28-314 to § 28-315.*

**Cruel Punishment** means punishment which intentionally causes physical injury to a vulnerable adult. *Neb. Rev. Stat. § 28-351.* Cruel Punishment shall include using force-feeding or requiring the vulnerable adult to consume nonfood items or inappropriate amounts of food, water, or non-food items; withholding of food, water, or required care; or use of sadistic measures or weapons, with the intent to punish the vulnerable adult.

**Sexual Abuse** shall include sexual assault as described in *Neb. Rev. Stat. § 28-319 or § 28-320* and incest as described in *Neb. Rev. Stat. § 28-703.* See *Neb. Rev. Stat. § 28-367.* Sexual abuse shall also include sexual Exploitation and Unlawful Intrusion.

**Sexual Assault** means when any person subjects another person to sexual penetration or sexual contact and overcomes the victim by force; threat of force, express or implied; coercion; or deception; or under circumstances in which the person knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct. *Neb. Rev. Stat. §§ 28-319 and 28-320.*

**Incest** means any person who knowingly intermarries or engages in sexual penetration with any person who falls within the degrees of consanguinity set forth in *Neb. Rev. Stat. § 28-702.* See *Neb. Rev. Stat. § 28-703.* The degree of consanguinity includes acts between parents and children, grandparents and grandchildren of every degree, between brothers and sisters of the half as well as the whole blood, and between uncles and nieces, aunts and nephews and includes children and relations born out of wedlock. *Neb. Rev. Stat. § 28-702.*

**Sexual Exploitation** includes, but is not limited to, any person causing, allowing, permitting, inflicting or encouraging a vulnerable adult to engage in voyeurism, exhibitionism, prostitution; or in the production, distribution, or acquisition of pornographic photographs, films, or depiction of the vulnerable adult in the same when the vulnerable adult is unable to give consent due to the or vulnerable adult's incapacity.

**Unlawful Intrusion** means when any person knowingly intrudes upon any other person without his or her consent or knowledge in a place of solitude or seclusion by viewing or recording, either by video, audio, or other electronic means, of a person in a state of undress in a place where a person would intend to be in a state of undress and have a reasonable expectation of privacy, including, but not limited to, any facility, public or private, used as a restroom, tanning booth, locker room, shower room, fitting room, or dressing room. *Neb. Rev. Stat. § 28-311.08.*

## NEGLECT

**Neglect/Denial of Essential Services** means that essential services are denied or neglected to such an extent that there is actual physical injury to a vulnerable adult or imminent danger of the vulnerable adult suffering physical injury or death. *Neb. Rev. Stat. § 28-355.* An essential service means those services necessary to safeguard the person or property of a vulnerable adult. Such services shall include, but not be limited to, sufficient and appropriate food and clothing, temperature and sanitary shelter, treatment for physical needs, and proper supervision. *Neb. Rev. Stat. § 28-357.*

**Lack of essential food or nutrition** means the caregiver does not provide sufficient or appropriate food or withholds food from a vulnerable adult, or the vulnerable adult is unable to do so him/herself, which is likely to result in physical injury to the vulnerable adult as evidenced by emaciation, malnutrition, dehydration, or weight loss.

**Lack of shelter** means the caregiver does not provide, or the vulnerable adult is unable to provide for him/herself, shelter which is free from hazards or which jeopardizes the physical safety of the vulnerable adult. This may include but is not limited to situations where wiring is exposed, there is inadequate heat for the weather, broken glass, etc.

**Failure to provide for Physical Hygiene** means the caregiver does not provide, or the vulnerable adult is unable to provide for him/herself, care for the vulnerable adult's need for physical hygiene. This lack of hygiene is likely to result in the risk to the serious physical health of the vulnerable adult as evidenced by severe rashes, ulcers, bedsores, etc.

**Abandonment**-means a vulnerable adult is without an appropriate caregiver due to the intentional act and decision of the responsible person not to care for the vulnerable adult.

**Failure to provide Proper Supervision** means the caregiver failing to provide supervision appropriate to the vulnerable adult's age, development, and the circumstances, as evidenced by a vulnerable adult, unable to care for him/herself, being left alone; the caregiver placing supervision responsibility with a person not willing or not capable of providing for the vulnerable adult's basic or special needs; or the caregiver not being able or willing to provide supervision due to substance abuse, mental illness or other behaviors. Proper supervision means care and control of a vulnerable adult which a reasonable and prudent person would exercise under similar facts and circumstances. *Neb. Rev. Stat. § 28-364.*

**Failure to Provide Treatment** means the caregiver's pattern of refusing or failing to seek/obtain medical treatment or rehabilitative care for the vulnerable adult's conditions that have potential injurious, life-threatening, or long term health effects. (Examples include appropriate hydration, nutrition, medication, medical or dental care, speech or physical therapy when there is potential for lifelong negative impact.)

**Self-Neglect** means that as a result of an adult's inability, due to physical and/or mental impairments or diminished capacity, s/he is unable to perform essential self-care tasks which include, but are not limited to: providing essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health, emotional well being and general safety, and/or managing financial affairs.

**Domestic Violence** means situations involving caregivers/other adults in the household when the vulnerable adult is physically present in the home, when an injury to an individual has occurred; a vulnerable adult has intervened; a vulnerable adult has called for help; vulnerable adult is fearful, OR weapons have been used a report will be accepted for investigation of the Denial of Essential Services. If the injury occurs to the vulnerable adult, the report will be accepted for investigation of physical abuse.

### EXPLOITATION

**Exploitation** means the taking of property of a vulnerable adult by means of undue influence, breach of fiduciary relationship, deception, or extortion, or by any unlawful means. *Neb. Rev. Stat. § 28-358.*

### ALL INTAKES

When reviewing a CPS report, also screen for APS allegations and vice versa.

**Child Maltreatment** means caregiver behavior that is harmful or destructive to a child's (birth through 17 years of age) cognitive, social, emotional, and/or physical development.

**Child Abuse or Neglect** means knowingly, intentionally, or negligently causing or permitting a minor child to be:

- A. Placed in a situation that endangers his or her life or physical health;
- B. Cruelly confined or cruelly punished;
- C. Deprived of necessary food, clothing, shelter, or care;
- D. Left unattended in a motor vehicle if such minor child is six years of age or younger;
- E. Sexually abused; or
- F. Sexually exploited by allowing, encouraging, or forcing such person to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornography, films or depictions.

### ABUSE

**Physical Abuse** means the non-accidental infliction of injury or an act that poses substantial likelihood of bodily injury.

**Physical Injury** means an inflicted injury that lasts more than 24 hours.

**Unreasonable use of Confinement/Restraints** Physical abuse will also include the use of restraints without a physician's order and the parent/caregiver's using confinement to a chair, bed, corner or similar environment for unreasonable periods of time.

**Cruel Punishment** means any type of discipline that results in injury, cuts, extreme bruising; withholding food, water, or required care, or requiring a child to consume nonfood items or inappropriate amounts of food, water or nonfood items; it also mean a parent or caregiver's use of sadistic measures or weapons.

**Emotional Abuse** means the parent/caregiver demonstrates a pattern of criticizing, rejecting, insulting, isolating, terrorizing, or humiliating the child, resulting in serious emotional or behavioral issues.

**Drug Exposed Infant** means an infant born with a positive urine or meconium test for alcohol or drugs. All reports involving children who test positive for methamphetamine following birth will be accepted for safety assessment. All other positive tests will be screened based on information about the parent's situation, observations of bonding and interaction with the infant. Referrals to home health nurses will be made as a differential response if DHHS will not be involved.

**Sexual Abuse** means any sexually oriented act, practice, contact, or interaction in which the child is or has been used for the sexual stimulation of a parent, the child, the vulnerable adult, or another person. See, for example, *Neb. Rev. Stat. §§ 28-703, 28-318, 28-319, 28-319.01, 28-320, 28-320.01, 28-320.02, and 28-367.*

## NEGLECT

**Physical Neglect** means the failure of the parent to provide basic needs, for example food, clothing, shelter, medical care, supervision and/or a safe and sanitary living environment for the child.

**Failure to provide food or essential nutrition** means the parent/caregiver does not feed or withholds food from a child which is likely to result in severe physical harm to the child as evidenced by emaciation, malnutrition, dehydration, failure to thrive or weight loss.

**Failure to provide any shelter or shelter is hazardous to the child** means the parent/caregiver does not provide any shelter or the shelter is hazardous and jeopardizes physical safety. This may include but is not limited to situations where wiring is exposed; there is inadequate heat for the weather, broken glass, etc.

**Failure to provide for Physical Hygiene** means parent/caregiver chronically does not provide care for child's need for physical hygiene. This chronic lack of hygiene results in continual demonstration of serious physical and/or social/emotional impact as evidenced by severe diaper rash, ulcers, bedsores, intense or continual isolation from others, humiliation, ridicule by peers, etc.

**Abandonment**-means a child is without an appropriate caregiver due to the intentional act and decision of the parent not to care for the child.

**Failure to provide proper Supervision** means parent/caregiver failure to provide supervision appropriate to the child's age, development, and the circumstances, as evidenced by a child, unable to care for him/herself, being left alone; a child under the age of seven being left in a motor vehicle; a parent/caregiver placing supervision responsibility with a person not willing or not capable of providing for the child's basic or special needs; or parent/caregiver not being able or willing to provide supervision due to substance abuse, mental illness or parental behaviors. Proper supervision means care and control of a child which a reasonable and prudent person would exercise under similar facts and circumstances. *Neb. Rev. Stat. § 28-364.*

**Inappropriate Sexual Acting out of Children** means behavior that is not consistent with the child's age AND/OR developmental level AND parents are not providing intervention or supervision. (Note: This does NOT include any allegation that meets the definition of sexual abuse. It is recommended that sexual abuse and neglect allegations both be included as allegations on reports involving sexual activity between children.)

**Medical Neglect** means parent/caregiver's pattern of refusing or failing to seek/obtain medical treatment or rehabilitative care for the child's conditions that have potential life-threatening or long term health effects, including failure to thrive. This does not include failure to seek treatment for behavioral health issues. (Examples include appropriate hydration, nutrition, medication, medical or dental care, speech or physical therapy when there is potential for lifelong negative impact.)

**Failure to Thrive** means a serious medical condition in which a child's weight and motor development are significantly below average for his/her age. Usually, though not always, this condition is found in children less than one year old; the syndrome may have an organic cause, or it may be caused by severe emotional or physical neglect.

**Medical Neglect of a Handicapped Infant** means the withholding of medically indicated treatment (including appropriate nutrition, hydration, and medication) from disabled infants with life-threatening conditions. Exceptions include those situations where (1) the infant is chronically and irreversibly comatose; (2) the provision of this treatment would merely prolong dying or not be effective in ameliorating or correcting all the life-threatening conditions; and (3) the provision of the treatment and the treatment itself under these conditions would be inhumane.

**Educational Neglect** means the failure of the parent or caregiver to access an appropriate educational program and assure regular attendance for a child age six or older, but younger than age 13, unless the parent/caregiver has complied with one of the exceptions listed in *Neb. Rev. Stat. § 79-201*.

**Emotional Neglect** means a parent's/caregiver's pattern of failure to seek emergency mental health services for a child who has suicidal, homicidal, or severe self-harming behaviors.

**Parent/Caregiver Substance Usage** requires a relationship between the parent's/caregiver's substance use and some form of maltreatment, such as inappropriate supervision, lack of food, etc. in order to justify DHHS intervention.

**Domestic Violence** means the establishment of control and fear in a relationship through the use of violence and other forms of abuse. Reports involving domestic violence will always be accepted for assessment if:

1. the child is physically present in the home when an injury to the adult has occurred;
2. the child has intervened;
3. the child has called for help;
4. the child is fearful;
5. weapons have been used, or items have been used as weapons in the incident;
6. the child demonstrates a pattern of emotional or behavioral response to domestic violence in the home; and/or
7. in situations involving reported isolation of the adult and/or children, there is a marked change in the usual routine.

### EXPLOITATION

**Sexual Exploitation** includes, but is not limited to, any person causing, allowing, permitting, inflicting or encouraging a child to engage in voyeurism, exhibitionism, prostitution; or in the production, distribution, or acquisition of pornographic photographs, films, or depiction of the child in same when the child is unable to give consent due to the child's age or incapacity.

### DEPENDENCY

**Dependency** means a situation in which a parent has active untreated or uncontrolled serious mental illness which prevents him/her from fulfilling parental responsibilities or there is an indication the parent may harm the child. In situations where there are allegations of abuse/neglect or bizarre parental behavior that is likely to result in harm to the children, an APS Intake will also be taken on the mentally ill adult, for possible self neglect.