

Chapter 3

Significance of the Definitions

When a person has cause to suspect that a child is abused, neglected, or dependent or that a child has died as the result of maltreatment, that person must report the child's situation to the county department of social services in the county where the child resides or is found.

How do you know when a child is or may be an "abused juvenile," a "neglected juvenile," or a "dependent juvenile"? The Juvenile Code (the Code) defines these and other key terms.¹ The definitions are important because they determine

1. which children's situations must be reported to the county department of social services;
2. whether the county social services department has a duty, and the authority, to conduct an assessment of the child's situation when it receives a report; and
3. whether the district court has authority to intervene on the child's behalf.

A court also must apply these definitions when an action is filed to terminate a parent's rights on the basis that the parent has abused or neglected his or her child² or that the parent is, and is likely to remain, incapable of providing proper care and supervision for the child, such that the child is a dependent juvenile, and the parent does not have a suitable alternative child care arrangement.³ In addition, the law making it a misdemeanor to

contribute to a child's being abused or neglected uses the Juvenile Code's definitions of those terms.⁴

Policies issued by the Division of Social Services in the state Department of Health and Human Services provide some guidance for interpreting the definitions.⁵ When juvenile court orders relating to abuse, neglect, or dependency are appealed, the North Carolina appellate courts may be called on to decide whether trial courts have interpreted and applied the definitions correctly in specific circumstances.⁶ The appellate court decisions become precedent for interpreting the definitions prospectively.

The Juvenile Code defines abused, neglected, and dependent juveniles—children whose situations must be reported to social services—fairly broadly. At the same time, the definitions exclude some children whom almost everyone would consider to be abused or neglected. This is because the Code does not attempt to describe all situations in which children are harmed, in which families and children might benefit from services, or in which services should be offered to families. As discussed above, the reporting law is not designed to require reports of crimes against children. Instead, the Code establishes the scope of the government's authority to intervene in families (or family-like situations) for purposes of protecting children, regardless of whether the family wants services or assistance. The reporting law is tied directly to identifying for proper authorities the circumstances in which that kind of intervention may be needed and is justified. Criminal laws, not the Juvenile Code and its definitions, specify when conduct affecting a child should be treated as a crime.⁷

The definitions discussed here are also discussed in the publication *Abuse, Neglect, Dependency, and Termination of Parental Rights Proceedings in North Carolina*.⁸

Notes

1. The definitions appear in North Carolina General Statutes (hereinafter G.S.) § 7B-101 and are reproduced in full in Appendix A. The North Carolina General Statutes can be viewed online at www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl. The Juvenile Code does not define *maltreatment*, and no appellate court decisions have interpreted the part of the reporting law that requires a report when a child dies as the result of maltreatment.

2. G.S. 7B-1111(a)(1).

3. G.S. 7B-1111(a)(6).

4. G.S. 14-316.1.

5. See N.C. Department of Health & Human Services, Division of Social Services, “Maltreatment Screening Tools and Procedures,” in Section 1407, Chapter VIII, of the Division of Social Services’ online *Family Support and Child Welfare Manual*, http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1407-05.htm#P581_66025. The entire manual and manuals for other social services programs can be accessed from <http://info.dhhs.state.nc.us/olm/manuals/manuals.aspx?dc=dss>.

6. The North Carolina Administrative Office of the Courts provides electronic access to opinions of the North Carolina Supreme Court and the North Carolina Court of Appeals from 1998 forward at <http://appellate.nccourts.org/opinions/>. Opinions are also available through the Findlaw service, which allows one to locate cases by using search terms. State supreme court opinions date from February 1997, <http://caselaw.findlaw.com/court/nc-supreme-court/>, and court of appeals opinions date from January 1997, <http://caselaw.findlaw.com/court/nc-court-of-appeals/>. Older opinions can be accessed through subscription online legal research tools such as Lexis and Westlaw. Traditional published volumes of cases are available at law school libraries and some county libraries, as well as at law firms and state agencies.

7. See, e.g., *Ostwalt v. Charlotte-Mecklenburg Bd. of Educ.*, 614 F. Supp. 2d 603, 608 (W.D.N.C. 2008) (citation omitted) (rejecting a claim that law enforcement officers were negligent for failing to report a teacher’s abuse of a child to the department of social services, because “[a]buse by a person who is not a parent, guardian, caretaker, or custodian is outside DSS’s jurisdiction and falls under North Carolina criminal law”).

8. Kella W. Hatcher, Janet Mason, and John Rubin, *Abuse, Neglect, Dependency, and Termination of Parental Rights Proceedings in North Carolina* (Chapel Hill, N.C.: UNC School of Government, 2011), sec. 2.4. This book can be accessed in PDF form, free of charge, at <http://shopping.netsuite.com/s.nl/c.433425/it.A/id.4228/f>.