WEST VIRGINIA CODE: §61-8D-1

§61-8D-1. Definitions.

In this article, unless a different meaning is plainly required:

(1) "Abuse" means the infliction upon a minor of physical injury by other than accidental means.

(2) "Child" means any person under eighteen years of age not otherwise emancipated by law.

(3) "Controlled substance" means controlled substance as that term is defined in §60A-1-101(d) of this code.

(4) "Custodian" means a person over the age of 14 years who has or shares actual physical possession or care and custody of a child on a full-time or temporary basis, regardless of whether that person has been granted custody of the child by any contract, agreement, or legal proceeding. "Custodian" shall also include, but not be limited to, the spouse of a parent, guardian or custodian, or a person cohabiting with a parent, guardian or custodian in the relationship of husband and wife, where the spouse or other person shares actual physical possession or care and custody of a child with the parent, guardian or custodian.

(5) "Guardian" means a person who has care and custody of a child as the result of any contract, agreement or legal proceeding.

(6) "Gross neglect" means reckless or intentional conduct, behavior, or inaction by a parent, guardian or custodian, or person in a position of trust in relation to a child, that evidences a clear disregard for a minor child's health, safety, or welfare.

(7) "Neglect" means the unreasonable failure by a parent, guardian or custodian, or person in a position of trust in relation to a child, to exercise a minimum degree of care to assure the minor child's physical safety or health. For purposes of this article, the following do not constitute "neglect" by a parent, guardian or custodian, or person in a position of trust in relation to a child:

(A) Permitting a minor child to participate in athletic activities or other similar activities that if done properly are not inherently dangerous, regardless of whether that participation creates a risk of bodily injury;

(B) Exercising discretion in choosing a lawful method of educating a minor child; or

(C) Exercising discretion in making decisions regarding the nutrition and medical care provided to a minor child based upon religious conviction or reasonable personal belief.

(8) "Parent" means the biological father or mother of a child, or the adoptive mother or

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father of a child.

(9) "Sexual contact" means sexual contact as that term is defined in §61-8B-1 of this code.

(10) "Sexual exploitation" means an act whereby:

(A) A parent, custodian, guardian or other person in a position of trust to a child, whether for financial gain or not, persuades, induces, entices or coerces the child to engage in sexually explicit conduct as that term is defined in §61-8C-1 of this code; or

(B) A parent, guardian, custodian or other person in a position of trust in relation to a child persuades, induces, entices, or coerces the child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian, person in a position of trust or a third person, or to display his or her sex organs under circumstances in which the parent, guardian, custodian or other person in a position of trust knows the display is likely to be observed by others who would be affronted or alarmed.

(11) "Sexual intercourse" means sexual intercourse as that term is defined in §61-8B-1 of this code.

(12) "Sexual intrusion" means sexual intrusion as that term is defined in §61-8B-1 of this code.

(13) A "person in a position of trust in relation to a child" refers to any person who, under law or agreement, is acting in the place of a parent and charged with any of a parent's rights, duties, or responsibilities concerning a child or someone responsible for the general supervision of a child's welfare, or any person who by virtue of his or her occupation or position is charged with any duty or responsibility for the health, education, welfare, or supervision of the child.

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