

# S.9 -- SECTION 6 CHILD ABUSE DEFINITIONS

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# Definitions (pp. 12-15)

- Definitions of Child Abuse or Neglect are used as the basis for deciding:
  - Whether to initiate an investigation or assessment.
    - That is, if the reporter has reason to believe that the child is being harmed, as defined in statute, we will commence an intervention.
  - If an investigation, whether to substantiate child abuse or neglect.
    - If a reasonable person would believe that the child experienced abuse or neglect as defined, the recommendation is for substantiation.
    - Persons who are substantiated (after an independent review, if they request it) are placed on the Child Protection Registry.
    - Persons on the Child Protection Registry may be barred from certain employment.

# Physical Injury (p. 14)

- Current definition: "Physical injury" means death or permanent or temporary disfigurement or impairment of any bodily organ or function by other than accidental means.
- S.9 definition: "Physical injury" means bodily injury or serious bodily injury as defined in 13 V.S.A. 6 § 1021.
  - 13 V.S.A. 6 § 1021 "Bodily injury" means physical pain, illness, or any impairment of physical condition.
  - 13 V.S.A. 6 § 1021 "Serious bodily injury" means:
    - (A) bodily injury which creates any of the following:
      - (i) a substantial risk of death;
      - (ii) a substantial loss or impairment of the function of any bodily member or organ;
      - (iii) a substantial impairment of health; or
      - (iv) substantial disfigurement; or
    - (B) strangulation by intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person.

# Physical Injury (p. 14)

- As proposed, physical injury would mean “bodily injury or serious bodily injury” as in 13 VSA 1021.
  - Bodily injury – physical pain, illness, or any impairment of physical condition.
  - Serious bodily injury – a bodily injury which creates any of the following:
    - A substantial risk of death;
    - A substantial loss of impairment of the function of any bodily member or organ;
    - A substantial impairment of health;
    - A substantial disfigurement; OR
    - Strangulation by intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person.
- Deletes “by other than accidental means” for the definition of physical injury.

# Questions/Concerns

- The 13 V.S.A. 6 § 1021 definitions do not include “death”. Death should be retained.
- The elimination of “other than by accidental means” means that children who experience an accidental injury will be considered the victims of child abuse. Parents might not seek needed medical treatment, as a result.
- The inclusion of “bodily injury” would result in corporal punishment being considered child abuse, due to the inclusion of pain.
- Bodily injury also includes illness.

# Physical Injury - Recommendation

- Keep the existing definition of physical injury.

# Exposure to Regulated Drugs (p. 13)

- What is “exposure”?
- Is there a likely connection between exposure and child safety for all of the drugs listed, and for children of any age?
- Will parents be unwilling to seek substance abuse treatment, given that medical and treatment professionals will be mandated to report them to DCF?

# Exposure -- Recommendation

- Eliminate the language on exposure in S.9.
- Address the impact of both drug and alcohol use on the safety and wellbeing of children in the definition of risk of harm.
  - DCF currently addresses this in both rule and policy.
  - We propose to incorporate this language into statute.

# Risk of Harm (p.14)

- S.9 language: “Risk of harm” means a ~~significant danger~~ that a child will suffer ~~serious harm other than by accidental means~~, which harm would be likely to cause physical injury, neglect, emotional maltreatment, or sexual abuse.
- The new definition changes the definition by:
  - Replacing “significant danger” with danger;
  - Removing “serious harm” altogether;
  - Removing “other than by accidental means”.
- This definition incorporates the new definition of “physical injury” (including physical pain, illness, or any impairment of physical condition).
- So, we are talking (among other things) about a danger that the child will suffer physical pain, illness, or any impairment of physical condition, even by accidental means.

# Risk of Harm - Recommendation 1

1. Retain "Risk of harm" means a significant danger that a child will suffer serious harm other than by accidental means.

2. Delete “which harm would be likely to cause physical injury, neglect, emotional maltreatment, or sexual abuse”. DCF has never been able to operationalize risk of neglect or risk of emotional maltreatment.

# Risk of Harm - Recommendation 2

Add new language, based on current promulgated rule: Risk of harm includes but is not limited to:

- (A) a single, egregious act that resulted in significant risk that a child could have been seriously physically injured, including production or pre-production of methamphetamines in a dwelling where a child reside;
- (B) being absent and not arranging for a child to be supervised in a manner appropriate to the child's age and circumstances;
- (C) not providing developmentally appropriate supervision or care for a child due to use of illegal substances, misuse of prescription drugs or alcohol;
- (D) not appropriately supervising a child in a situation in which drugs, alcohol or drug paraphernalia are accessible to the child;
- (E) knowingly allowing a child to be at substantial risk of sexual abuse;
- (F) failure by a registered sex offender or person substantiated for sexually abusing a child to refrain from residing with or spending unsupervised time with a child.

# Data Context

- In 2013, we conducted 5135 child safety interventions (assessment and investigations, as follows:
  - Chapter 49 Investigations – 2657
  - Chapter 49 Assessments – 1409
  - CHINS(B) Assessments – 5135
- Risk of Harm would most often fall under the Chapter 49 Assessment category, in which substantiation is not a consideration.
- Even so, about 205 of the 642 of the Chapter 49 substantiations were for risk of harm. It is our second highest category of substantiation, following sexual abuse.

# Sexual Abuse (pp. 15-16)

- The proposal is to cross-reference the criminal statutes.
- What are the advantages/purposes of this strategy?
- We think this may narrow our scope.
- Are there unintended consequences? For instance, would we still investigate in situations in which the person is not chargeable, due to age or competency?
- “By any person” is removed. Currently, we conduct a child safety intervention, in some cases, when the alleged perpetrator is younger than 10, and therefore not chargeable. Would this eliminate that possibility?

# Sexual Abuse -- Recommendation

- Retain current definition: “Sexual abuse” consists of any act or acts by any person involving sexual molestation or exploitation of a child, including incest, prostitution, rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child.
- Add: Sexual abuse also includes the viewing, possession or transmission of child pornography, excluding exchanges of images between mutually consenting minors.

# Impact of S.9 Proposed Definitions

- Together, the changes in definitions will :
  - Significantly lower the threshold for child protection involvement with Vermont families.
  - Greatly increase the number of reports that mandated reporters will have to make.
  - Greatly increase the number of individuals on the Child Protection Registry, whose employment is potentially impacted.
  - Require significantly increased workforce in:
    - centralized intake – to take and screen the additional intakes –
    - district offices – to conduct the additional child abuse investigations and assessments.
    - The Registry Review Unit to handle the independent review of substantiation decisions and expungement decision.
  - Require automated systems (IT) to be updated.

# Intakes Week of Jan 4-10

## Re-Evaluated using Criteria in S.9

Week of Jan 4, 2015	Orig. Decision	Totals after Review	New Totals
Total Intakes	394		394
Accepted	123	92	215
Not Accepted	271	-92	179
Acceptanc e Rate	31%		55%

- This is based on intakes we get under current statute.
- If definitions were changed as in S.9 as introduced, we would get many more intakes.

# New Acceptance Detail – 1 week impact

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New Definition of:	Accepted
Physical Abuse	23
Risk of Harm	28
Exposure	29
More than one	12
Total	92

## Very Conservative Estimate of Additional FTEs needed District Offices only (not including administrative staff needed)

Weekly Additional Accepted Reports	92
Yearly Additional Accepted Reports	4784
Addl SW FTEs required at 100 interventions/FTE/year	48
Addl Supervisors needed	8

# Links to Rule and Policy

- Rule: Response to Child Abuse and Neglect
  - [http://dcf.vermont.gov/sites/dcf/files/pdf/fsd/rules/Child\\_Abuse\\_and\\_Neglect\\_Adopted\\_Rule\\_5\\_26\\_09.pdf](http://dcf.vermont.gov/sites/dcf/files/pdf/fsd/rules/Child_Abuse_and_Neglect_Adopted_Rule_5_26_09.pdf)
- Policy: [Screening Reports of Child Abuse and Neglect](#)
- Policy: [Child Safety Interventions: Investigations & Assessments](#)
- Policy: [Substantiating Child Abuse and Neglect](#)
- Policy: [Juvenile Proceedings Act--CHINS\(C\) and \(D\) Assessments](#)
- Policy: [Investigating Reports of Methamphetamine Manufacturing and Caretaker Methamphetamine Abuse](#)