

**34 USC 40104: Definitions**

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**From Title 34-CRIME CONTROL AND LAW ENFORCEMENT**

Subtitle IV-Criminal Records and Information

CHAPTER 401-CHILD ABUSE CRIME INFORMATION AND BACKGROUND CHECKS

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**§40104. Definitions**

For the purposes of this chapter-

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this chapter;

(2) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(3) the term "child abuse crime" means a crime committed under any law of a State that involves the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by any person;

(4) the term "child abuse crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a child abuse crime: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the child abuse crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that the Attorney General determines may be useful in identifying persons arrested for, or convicted of, a child abuse crime;

(5) the term "care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities;

(6) the term "identifiable child abuse crime case" means a case that can be identified by the authorized criminal justice agency of the State as involving a child abuse crime by reference to the statutory citation or descriptive label of the crime as it appears in the criminal history record;

(7) the term "individuals with disabilities" means persons with a mental or physical impairment who require assistance to perform one or more daily living tasks;

(8) the term "national criminal history background check system" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

(9) the term "covered individual" means an individual-

(A) who has, seeks to have, or may have access to children, the elderly, or individuals with disabilities, served by a qualified entity; and

(B) who-

(i) is employed by or volunteers with, or seeks to be employed by or volunteer with, a qualified entity; or

(ii) owns or operates, or seeks to own or operate, a qualified entity;

(10) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services;

(11) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific; and

(12) the term "designated entity" means an entity designated by the Attorney General under section 40102(f)(2)(A) of this title.

( Pub. L. 103–209, §5, Dec. 20, 1993, 107 Stat. 2493 ; Pub. L. 103–322, title XXXII, §320928(a)(3), (j), Sept. 13, 1994, 108 Stat. 2132 , 2133; Pub. L. 107–110, title X, §1075, Jan. 8, 2002, 115 Stat. 2090 ; Pub. L. 115–141, div. S, title I, §101(a)(2), Mar. 23, 2018, 132 Stat. 1126 .)

**CODIFICATION**

Section was formerly classified to section 5119c of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**AMENDMENTS**

**2018-**Par. (9). Pub. L. 115–141, §101(a)(2)(A), amended par. (9) generally. Prior to amendment, par. (9) defined the term "provider".

Par. (12). Pub. L. 115–141, §101(a)(2)(B)–(D), added par. (12).

**2002-**Par. (9)(A)(i). Pub. L. 107–110, §1075(1), inserted before semicolon at end "(including an individual who is employed by a school in any capacity, including as a child care provider, a teacher, or another member of school personnel)".

Par. (9)(B)(i). Pub. L. 107–110, §1075(2), inserted before semicolon at end "(including an individual who seeks to be employed by a school in any capacity, including as a child care provider, a teacher, or another member of school personnel)".

**1994-**Par. (5). Pub. L. 103–322, §320928(a)(3)(A), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "the term 'child care' means the provision of care, treatment, education, training, instruction, supervision, or recreation to children by persons having unsupervised access to a child;".

Pars. (6), (7). Pub. L. 103–322, §320928(j)(2), added pars. (6) and (7). Former pars. (6) and (7) redesignated (8) and (9), respectively.

Par. (8). Pub. L. 103–322, §320928(j)(1), redesignated par. (6) as (8). Former par. (8) redesignated (10).

Pub. L. 103–322, §320928(a)(3)(B), substituted "care" for "child care" wherever appearing.

Pars. (9) to (11). Pub. L. 103–322, §320928(j)(1), redesignated pars. (7) to (9) as (9) to (11), respectively.

### **EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of Title 20, Education.

### **TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS**

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.