

LSA-Ch.C. Art. 603




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Louisiana Children's Code [\(Refs & Annos\)](#)

Title VI. Child in Need of Care [\(Refs & Annos\)](#)

 [Chapter 1. Preliminary Provisions; Definitions \(Refs & Annos\)](#)

→ **Art. 603.** Definitions

As used in this Title:

(1) "Abuse" means any one of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:

(a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.

(b) The exploitation or overwork of a child by a parent or any other person.

(c) The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the child's sexual involvement with any other person or of the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

(2) "Administrative review body" means a panel of appropriate persons, at least one of whom is not responsible for the case management of or delivery of services to either the child or the parents who are the subject of the review, including the citizen review boards, state hearing examiners, special department reviewers, or department personnel.

(3) "Caretaker" means any person legally obligated to provide or secure adequate care for a child, including a parent, tutor, guardian, legal custodian, foster home parent, an employee of a public or private day care center, an operator or employee of a family child day care home, or other person providing a residence for the child.

(4) "Case review hearing" means a review hearing by a court or administrative review body for the purpose of determining the continuing necessity for and appropriateness of the child's placement, to determine the extent of compliance with the case plan, to determine the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement, and to project a likely date by which the child may be permanently placed.

(5) "Child" means a person under eighteen years of age who, prior to juvenile proceedings, has not been judicially emancipated under [Civil Code Article 385](#) or emancipated by marriage under [Civil Code Articles 379](#) through [384](#).

(6) "Child care agency" means any public or private agency exercising custody of a child.

(7) "Child pornography" means visual depiction of a child engaged in actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals.

(7.1) "Concurrent planning" means departmental efforts to preserve and reunify a family, or to place a child for adoption or with a legal guardian which are made simultaneously.

(8) "Court-appointed or court-approved administrative body" means a body appointed or approved by a court and

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subject to the court's supervision for the purposes of assisting the court with permanency hearings, including magistrates or other court or noncourt personnel. This body shall not be a part of the Department of Social Services or the Department of Public Safety and Corrections, nor subject to the supervision or direction of either department.

(9) "Crime against the child" shall include the commission of or the attempted commission of any of the following crimes against the child as provided by federal or state statutes:

- (a) Homicide.
 - (b) Battery.
 - (c) Assault.
 - (d) Rape.
 - (e) Sexual battery.
 - (f) Kidnapping.
 - (g) Criminal neglect.
 - (h) Criminal abandonment.
 - (i) Incest.
 - (j) Carnal knowledge of a juvenile.
 - (k) Indecent behavior with juveniles.
 - (l) Pornography involving juveniles.
 - (m) Molestation of a juvenile.
 - (n) Crime against nature.
 - (o) Cruelty to juveniles.
 - (p) Contributing to the delinquency or dependency of children.
 - (q) Sale of minor children.
- (10) "Department" means the Louisiana Department of Social Services.
- (11) Repealed by Acts 1999, No. 449, § 2, eff. July 1, 1999.
- (12) "Foster care" means placement in a foster family home, a relative's home, a residential child caring facility, or other living arrangement approved and supervised by the state for provision of substitute care for a child in the department's custody. Such placement shall not include a detention facility.

(12.1) "Institutional abuse or neglect" means any case of child abuse or neglect that occurs in any public or private facility that provides residential child care, treatment, or education.

(13) "**Mandatory reporter**" is any of the following individuals performing their occupational duties:

- (a) "Health practitioner" is any individual who provides health care services, including a physician, surgeon,

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physical therapist, dentist, resident, intern, hospital staff member, podiatrist, chiropractor, licensed nurse, nursing aide, dental hygienist, any emergency medical technician, a paramedic, optometrist, medical examiner, or coroner, who diagnoses, examines, or treats a child or his family.

(b) "Mental health/social service practitioner" is any individual who provides mental health care or social service diagnosis, assessment, counseling, or treatment, including a psychiatrist, psychologist, marriage or family counselor, social worker, member of the clergy, aide, or other individual who provides counseling services to a child or his family.

(c) "Member of the clergy" is any priest, rabbi, duly ordained clerical deacon or minister, Christian Science practitioner, or other similarly situated functionary of a religious organization, except that he is not required to report a confidential communication, as defined in [Code of Evidence Article 511](#), from a person to a member of the clergy who, in the course of the discipline or practice of that church, denomination, or organization, is authorized or accustomed to hearing confidential communications, and under the discipline or tenets of the church, denomination, or organization has a duty to keep such communications confidential. In that instance, he shall encourage that person to report the allegations to the appropriate authorities in accordance with Article 610.

(d) "Teaching or child care provider" is any person who provides training and supervision of a child, including any public or private teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, or any individual who provides such services to a child.

(e) Police officers or law enforcement officials.

(f) "Commercial film and photographic print processor" is any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides for compensation.

(g) Mediators appointed pursuant to Chapter 6 of Title IV.

(14) "Neglect" means the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired. Consistent with Article 606(B), the inability of a parent or caretaker to provide for a child due to inadequate financial resources shall not, for that reason alone, be considered neglect. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing which has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or maltreated. However, nothing herein shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health or welfare.

(14.1) "Permanency hearing" means a hearing for the purpose of determining the permanent plan for the child.

(15) "Permanent placement" means:

(a) Return of the legal custody of a child to his parent(s).

(b) Placement of the child with adoptive parents pursuant to a final decree of adoption.

(c) Placement of the child with a legal guardian.

(16) "Person" means any individual, partnership, association, agency, or corporation, and specifically shall include city, parish, or state law enforcement agencies, and a parish or city school board or a person employed by a parish or city school board.

(17) "Reasonable efforts" means the exercise of ordinary diligence and care by department caseworkers and

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supervisors and shall assume the availability of a reasonable program of services to children and their families.

CREDIT(S)

Added by [Acts 1991, No. 235, § 6, eff. Jan. 1, 1992](#). Amended by [Acts 1992, No. 705, § 1, eff. July 6, 1992](#); [Acts 1993, No. 634, § 1, eff. June 15, 1993](#); [Acts 1995, No. 444, § 1, eff. June 17, 1995](#); [Acts 1999, No. 449, § 1, eff. July 1, 1999](#); [Acts 1999, No. 769, § 1, eff. July 2, 1999](#); [Acts 1999, No. 894, § 1](#); [Acts 2001, No. 567, § 1](#); [Acts 2003, No. 567, § 1](#); [Acts 2003, No. 1187, § 1](#); [Acts 2004, No. 398, § 1, eff. June 23, 2004](#).

<<LOUISIANA CHILDREN'S CODE>>

<Generally Effective January 1, 1992>

LEGISLATIVE INTENT OF ACTS 2003, NO. 1187

<House Resolution No. 169 of the 2003 Regular Session provides:>

<"WHEREAS, the Legislature of Louisiana amended Children's Code Article **603**(13)(b) in Senate Bill No. 383 of the 2003 Regular Session to include members of the clergy as **mandatory reporters** of any physical or mental abuse or neglect of a child; and>

<"WHEREAS, the term 'clergy' was added to the definition of 'mental health/social service practitioner' who is defined as any individual who provides mental health care or social service diagnosis, assessment, counseling, or treatment; and>

<"WHEREAS, the definition of 'mental health/social service practitioner' was never intended to include spiritual counseling.>

<"THEREFORE, BE IT RESOLVED that the Louisiana State Law Institute is hereby authorized and requested to add a comment to Children's Code Article **603** to express the legislative intent of the term 'counseling', specifically that members of the clergy who exclusively provide spiritual counseling are not covered by the provisions of Senate Bill No. 383 of the 2003 Regular Session.">

<Senate Bill No. 383 was enacted as Acts 2003, No. 1187.>

COMMENTS--1991

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- a. The source of the definition of "Abuse" is part of the definition of "Child in need of care," C.J.P. Article 13(14)(a), supplemented by the definition of "Sexual abuse" found in [R.S. 14:403\(G\)\(1\)\(b\)](#), as amended 1988.
- b. The source of the definition of "Administrative review body," is [P.L. 96- 272](#).
- c. The source of the definition of "Caretaker" is [R.S. 14:403\(B\)\(2\)](#), as amended for clarity.
- d. The definition of "Case review hearing" reproduces the definition contained in [P.L. 96-272](#).
- e. The definition of "Child" in this article is new. Note that "Child" is generally defined as a minor under seventeen years of age in Article 116. Under C.J.P. Article 13(9), the court's age jurisdiction was extended to eighteen for child in need of care cases and for child abuse reporting.

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f. "Child care agency" is a new definition. It was created to include the broadest sense of "foster care" as used in Section 472(b) of the federal permanency planning law, [P.L. 96-272](#), and [R.S. 46:2411\(5\)](#). Compare with the definition of "Foster care" in Subparagraph (12) of this article.

g. The source of the definition of "Court-appointed or court-approved administrative body" is [P.L. 96-272](#).

h. The elements of each of the offenses identified as a "Crime against a child" may be found in the following criminal statutes: [R.S. 14:29-32.1](#) (homicide); [R.S. 14:33-35](#) (battery); [R.S. 14:36-38](#) (assault); [R.S. 14:41-43](#) (rape); [R.S. 14:43.1-43.5](#) (sexual battery); [R.S. 14:44-45.1](#) (kidnapping); [R.S. 14:74-75.2](#) (criminal neglect); [R.S. 14:79.1](#) (criminal abandonment); [R.S. 14:78](#) (incest); [R.S. 14:80](#) (carnal knowledge of a juvenile); [R.S. 14:81](#) (indecent behavior with juveniles); [R.S. 14:81.1](#) (pornography involving juveniles); [R.S. 14:81.2](#) (molestation of a juvenile); [R.S. 14:89-89.1](#) (crime against nature); [R.S. 14:93](#) (cruelty to juveniles) and [R.S. 14:92](#) and [14:92.1](#) (contributing to the delinquency or dependency of children).

i. The definition of "Dispositional review hearing" reproduces the definition contained in [P.L. 96-272](#), [42 U.S.C. § 606](#).

j. The source of the definition of "Foster care" is [P.L. 96-272](#), [42 U.S.C. § 606](#).

k. The source of the definition of "Health practitioner" is [R.S. 14:403\(B\)\(4\)\(a\)](#).

l. The source of the definition of "Mental health/Social service practitioner" is [R.S. 14:403\(B\)\(4\)\(b\)](#).

m. The source of the definition of "Teaching or child care provider" is [R.S. 14:403\(B\)\(4\)\(c\)](#).

n. The source of the definition of "**Mandatory reporter**" is [R.S. 14:403\(B\)\(4\)](#).

o. The source of the definition of "Commercial film and photographic print processor" is [R.S. 14:403\(B\)\(4\)\(e\)](#).

p. The sources of the definition of "Neglect" are [R.S. 14:403\(B\)\(5\)](#) and the definition of "Child in need of care," C.J.P. Article 13(14)(b), with minor changes.

q. The definition of "Permanent placement" is a slight modification of the requirements of [P.L. 96-272](#).

r. The definition of "Person" is taken from [R.S. 14:403\(B\)\(6\)](#).

s. The source of the definition of "Reasonable efforts" is C.J.P. Article 87(F).

COMMENTS--1992

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(a) The amendment to Article 603(9) reconciles the listing of offenses which qualify as a "crime against the child" in child in need of care proceedings with the same listing in termination of parental rights proceedings, Article 1003(4). The elements of the crime of sale of minor children are found in [R.S. 14:286](#). See also Art. 1611.

(b) The amendment to Article 603(12) alters the definition of "foster care" to comply with department practices pursuant to federal regulations.

(c) The amendment to Article 603(14) will ultimately shift deprivation of education from being a ground for intervention to protect a child in child in need of care proceedings to a ground for intervention as a

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family in need of services case, pursuant to Title VII of this Code.

COMMENT-1999

2004 Main Volume

"Concurrent planning" is a term of art used by the Adoption and Safe Families Act of 1997, [42 U.S.C. 601](#) et seq., [P.L. 105-89](#). This alternative planning concept reflects the underlying policy of expediting permanency decision making by the department.

COMMENT--2001

2004 Main Volume

The Adoption and Safe Families Act (ASFA) of 1999, [42 U.S.C. 601](#) et seq., [P.L. 105-89](#), limits the option of administrative review to bodies that are not within the control of the state welfare agency. The purpose of this policy obviously is to ensure that permanency hearings are conducted with impartiality. ASFA forbids the delegation of the conduct of such hearings to the state's child welfare agency. (See Federal Register, Vol. 65, No. 16 (January 15, 2000), p. 4076.)

COMMENT--2003

2004 Main Volume

The scope of the definition of "**mandatory reporters**" of child abuse has always recognized that priests, rabbis, pastors or other religious ministers typically provide counseling to members of their congregations and that many denominations consider those communications, such as the confessional, to be sacrosanct and nondisclosable. Respecting that policy, former law included religious ministers within the category of "mental health/social service practitioner" but exempted them from mandatory reporting if the knowledge of abuse or neglect arose out of a "confession or other sacred communication". In 2003, the legislature created a special category for members of the clergy and continued exemption for "confidential communication", the term used by the Evidence Code. [Code of Evidence Article 511](#), which governs communications to clergymen, defines the privileged confidential communication as one "made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication." Members of the clergy who exclusively provide spiritual counseling are not required to report disclosures of abuse made in the course of a confidential communication. However, the legislature also recognized that members of the clergy may also engage in other roles, such as administrative and organizational work as well as provide supervision for other clergy or lay workers. The exemption from reporting does not extend to nonconfidential communications given to a priest or other minister during administrative, supervisory, or secular counseling or other type of conference.

HISTORICAL AND STATUTORY NOTES

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Acts 2004, No. 398, § 1, in par. (3), inserted ", an operator or employee of a family child day care home" following "private day care center".

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The 1992 amendment added subpar. (9)(q), relating to sale of minor children; and rewrote pars. (12) and (14), which had read:

"(12) 'Foster care' means a foster family home licensed by the department."

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"(14) 'Neglect' means the refusal or failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, or legally required education, as a result of which the child's physical, mental, or emotional health is substantially threatened or impaired. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing which has a reasonable proven record of success, the child shall not for that reason alone be considered to be neglected or abused. However, nothing herein shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health or welfare."

The title of Acts 1992, No. 705 and the enacting clause of § 1 both purported to amend par. (9), but Act 705 only set out new subpar. (9)(q).

The 1993 amendment substituted "maltreated" for "abused" in the second sentence of the definition of "Neglect" in par. (14).

The 1995 amendment, in par. (14), inserted "willful" preceding "failure of a parent" in the first sentence and added a sentence in the second position, relating to inadequate financial resources.

Acts 1999, No. 449, § 1, in the introductory paragraph of par. (1), inserted "and safety" following "or emotional health"; inserted par. (7.1), defining concurrent planning; in par. (8), substituted "permanency hearings" for "dispositional review hearings" following "assisting the court with"; in the first sentence of par. (14), deleted "willful" following "means the refusal" and inserted "and safety" following "physical, mental, or emotional health"; inserted par. (14.1), defining permanency hearing; designated subpar. (15)(b) as subpar. (15)(c) and designated subpar. (15)(c) as subpar. (15)(b); in subpar. (15)(c), substituted "with a legal guardian" for "under a guardianship of the person"; and repealed par. (11), which had read:

"(11) 'Dispositional review hearing' means a hearing for the purpose of determining the future status of the child."

The title of Acts 1999, No. 449 and the introductory language of § 1 thereof reflected an intent to amend all of par. (1) of this article, but only the text of the introductory paragraph of par. (1) was set forth in the Act. Pursuant to the statutory revision authority of the Louisiana State Law Institute, subpars. (1)(a), (b), and (c) were retained.

Acts 1999, No. 769, § 1, substituted in the first sentence of par. (14) "unreasonable" for "willful" preceding "failure of a parent or caretaker".

Acts 1999, No. 894, § 1 added subpar. (13)(f).

Both Acts 1999, No. 449 and Acts 1999, No. 769 amended par. (14) of this article. Pursuant to the statutory revision authority of the Louisiana State Law Institute, par. (14) from Act 449 is printed with the amendment of the first sentence, changing "refusal or failure" to "refusal or unreasonable failure" inserted from Act 769.

Acts 2001, No. 567, § 1, in par. (8), added the second sentence relating to the status of the court-appointed or court-approved administrative body defined in that paragraph.

Acts 2003, No. 567, § 1, added par. (12.1); deleted the former second sentence of subpar. (13)(b), which had read: "However, when a priest, rabbi, duly ordained minister or Christian Science practitioner acquired knowledge of abuse or neglect from a person during a confession or other sacred communication, he shall encourage that person to report the abuse of the child but shall not be a **mandatory reporter** of that information given in confession or sacred communication."; added new subpar. (13)(c), defining "member of the clergy"; and designated former subpars. (13)(c) through (f) as subpars. (13)(d) through (g).

Acts 2003, No. 1187, § 1 rewrote subpar. (13)(b), which had provided:

"(b) 'Mental health/social service practitioner' is any individual who provides mental health care or social service diagnosis, assessment, counseling, or treatment, including a psychiatrist, psychologist, marriage or family counselor, social worker, aide, or other individual who provides counseling services to a child or his family. However, when a

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priest, rabbi, duly ordained minister, or Christian Science practitioner has acquired knowledge of abuse or neglect from a person during a confession or other sacred communication, he shall encourage that person to report but shall not be a **mandatory reporter** of that information given in confession or sacred communication."

The text of par. (13) was printed as amended by Acts 2003, No. 567, with "member of the clergy," inserted as indicated by Act 1187 in subpar. (13)(b), and "duly ordained deacon or minister" substituted for "minister, duly ordained deacon" in subpar. (13)(c), pursuant to the statutory revision authority of the Louisiana State Law Institute.

In 2004, pursuant to the statutory revision authority of the Louisiana State Law Institute, in this article as amended in 2003, in subpar. (13)(c), "clerical" was inserted preceding "deacon or minister" and "Evidence Code" was changed to "Code of Evidence".

CROSS REFERENCES

Abuse of a minor, prescriptive period for action against a person, see [R.S. 9:2800.9](#).

Abuse of children, see [R.S. 14:403](#).

Cruelty to juvenile as crime, see [R.S. 14:93](#).

LAW REVIEW AND JOURNAL COMMENTARIES

[Ashcroft v. Free Speech Coalition et al.: Is the Child Pornography Prevention Act first amendment friendly, or a virtual disaster?](#) 30 S.U. L. Rev. 261 (2003).

Naked fizzes and iron cages: Individual values, professional virtues, and the struggle for public space. Barry Sullivan, 78 Tul. L. Rev. 1687 (2004).

RESEARCH REFERENCES

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ALR Library

[53 ALR 5th 499](#), Sufficiency of Evidence to Establish Parent's Knowledge or Allowance of Child's Sexual Abuse by Another Under Statute Permitting Termination of Parental Rights for "Allowing" or "Knowingly Allowing" Such Abuse to Occur.

[1 ALR 4th 38](#), Validity and Construction of Penal Statute Prohibiting Child Abuse.

Treatises and Practice Aids

[12 LA Civil Law Treatise](#), Statutory Appendix.

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[1](#). Validity of prior law


Statutes, pursuant to which child was declared to be in need of care and protection of family court, removed from custody of her natural mother and placed in temporary custody of her maternal grandmother, were not unconstitutionally vague, ambiguous and overbroad. [State in Interest of Alexander, App. 4 Cir.1980, 384 So.2d 1003](#), writ refused [386 So.2d 95](#). Infants  132


[2](#). Construction and application

The phrase "without proper guardianship" in Acts 1924, No. 30, relating to neglected children, was not an omnibus phrase covering every part of definition of neglected child, but referred to destitute or abandoned children or children dependent on public for support or children without parents or other persons legally obligated to care for children, and was not applicable to children with homes provided by parents. [In re Knight, Sup.1947, 212 La. 357, 31 So.2d 825](#). Infants  156


[3](#). Child in need of care

Evidence of father's neglect was sufficient to justify adjudicating first child in need of care and denying father custody; father knew of mother's drug use but still allowed mother liberal visitation, including overnight visits, and father was aware of second child's inappropriate sexual encounters with first child but did nothing but have talk with children. [State ex rel. J.B., App. 2 Cir.2001, 794 So.2d 899, 35,032 \(La.App. 2 Cir. 5/9/01\)](#). Infants  179

There was sufficient evidence that child was victim of neglect to support child-in-need-of-care adjudication on that basis; evidence showed a repeated pattern of mother's placing child at risk by willfully and voluntarily leaving her own mother's home and exposing child to lack of adequate shelter on basis that child's mother did not like her own mother's "rules." [State ex rel. AR, App. 1 Cir.1999, 754 So.2d 1073, 1999-0813 \(La.App. 1 Cir. 9/24/99\)](#). Infants  179

Guatemalan child, who was suffering from noncongenital rickets, was "child in need of care" and, therefore, was within jurisdiction of juvenile court. (Per Judge Williams with one Judge concurring with reasons). [State In Interest of Quan v. Quan, App. 4 Cir.1987, 504 So.2d 599](#), writ granted, judgment amended [508 So.2d 576](#), judgment clarified [508 So.2d 576](#), rehearing denied [511 So.2d 1145](#). Infants  154.1

[4](#). Neglect

Seven year old twin girls who lived with mother first in home of paternal grandmother and then in home of maternal grandmother, and who received all care required for their health and comfort, and whose environment was refined, were not "neglected children" whose custody would be awarded to paternal grandmother, notwithstanding that mother was allegedly an immoral person, where acts of asserted immorality were not committed in the home and the children did not come in contact with the alleged disgraceful conduct. [In re Knight, Sup.1947, 212 La. 357, 31 So.2d 825](#). Infants  158


Adjudication of child in need of care, based on mother's alleged neglect, was not supported by evidence, considering that social worker's finding of home in disarray on one occasion was explained by dog's illness, that home was reasonably clean, that child was properly fed, that report forms used by examining physicians were unreliable, since they were supplied by parish office of community services and contained specific allegations of neglect and abuse, and that three physicians found no evidence of neglect. [State in Interest of H.P., App. 3 Cir.1998, 721 So.2d 546](#),

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[1998-1015 \(La.App. 3 Cir. 10/28/98\)](#), Infants  179


The religious healing article does not prevent investigation into a report of medical neglect, although it may provide a defense to an accusation of neglect. Op.Atty.Gen. No. 94-78, April 12, 1994.


5. Age of child


Statute mandates that disposition of child in need of care is to terminate once person reaches age of 18. [State in Interest of G.P., App. 4 Cir.1993, 622 So.2d 790](#). Infants  222


The Dept. of Public Safety & Corrections cannot continue to require parents or legal guardians to contribute to the cost of the care and treatment of persons in custody after they reach majority. Op.Atty.Gen., No. 99-320, October 18, 1999.

6. Abuse, generally


Evidence was sufficient to support finding that first child was sexually abused by father, for purpose of petition to adjudicate children as in need of care; although second child recanted after giving eyewitness account of sexual abuse of first child by father, first child remained constant that father forced him to engage in oral and anal sex, case workers believed first child and second child's original account, and physical evidence of sexual abuse existed. [State ex rel. J.B., App. 2 Cir.2001, 794 So.2d 899, 35,032 \(La.App. 2 Cir. 5/9/01\)](#). Infants  179

Evidence in child in need of care proceeding was sufficient to establish that father sexually abused child and that mother neglected child; child's statements during interviews with child protection worker and child psychologist indicated that father had sexually abused her and that mother was aware of abuse and did nothing to protect child from further abuse, and evidence indicated that mother allowed child to live with father after being made aware of abuse allegations. [State in Interest of CW v. Womack, App. 2 Cir.1996, 669 So.2d 700, 28,310 \(La.App. 2 Cir. 2/28/96\)](#). Infants  179


Evidence in child in need of care proceeding that child had been sexually abused by her father was insufficient to establish that child's brothers were abused or neglected, absent evidence of actual or threatened abuse of neglect or evidence concerning mental, physical, or emotional condition of brothers. [State in Interest of CW v. Womack, App. 2 Cir.1996, 669 So.2d 700, 28,310 \(La.App. 2 Cir. 2/28/96\)](#). Infants  179

Finding that child is abused and/or neglected is not based on the number of times that the child may have been abused but upon the fact that the child has been abused at all. [State in Interest of Black, App. 4 Cir.1975, 310 So.2d 174](#), writ denied [313 So.2d 829](#). Infants  156

7. Cruel punishment


Fact that mother threatened to send son to distant military school did not support findings of "cruel punishment" so as to justify finding that son was "child in need of care." [State in Interest of Galvan, App. 4 Cir.1980, 384 So.2d 1000](#). Infants  156


8. Permanent placement


Permanent placement of children within context of termination of parental rights proceedings does not include leaving children permanently in foster care. In re State ex rel. W.M.O., App. 4 Cir.2005, 2004-2025 (La.App. 4 Cir. 6/1/05), [2005 WL 1399089](#). Infants  226

Foster care is not considered "permanent placement" pursuant to statute defining "permanent placement" as return of legal custody of child to his parent, placement of child with adoptive parents, or placement of child with legal


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guardian. [State ex rel. D.R.B., App. 3 Cir.2000, 777 So.2d 508, 2000- 1321 \(La.App. 3 Cir. 12/6/00\)](#). Infants  226



State's proposal that child previously adjudicated in need of care be placed in full and permanent custody of his maternal aunt and her husband did not conform to statutory definition of permanent placement; permanent placement required either return of legal custody to child's parent, child's placement under guardianship of the person, or child's placement with adoptive parents pursuant to final decree of adoption. [Fowler v. Fowler, App. 3 Cir.1998, 722 So.2d 125, 1998-953 \(La.App. 3 Cir. 12/9/98\)](#). Infants  231

Whether or not trial court's nonstatutory grant of "permanent placement" of child previously adjudicated in need of care with child's maternal aunt and her husband was intended as placement of child in couple's permanent foster care, trial court's findings that couple provided safe, attentive, stable environment for child, that child thrived while in their care, and that they demonstrated long-term commitment to child, amply supported child's placement in their permanent foster care. [Fowler v. Fowler, App. 3 Cir.1998, 722 So.2d 125, 1998-953 \(La.App. 3 Cir. 12/9/98\)](#). Infants  231

9. Department

Provision of statute governing admissibility of child's videotaped statement in child in need of care proceeding, requiring taking of statement to be supervised by "authorized representative of the department" allowed authorized representative of another state's department of social services to supervise taping of statements. [State in Interest of CW v. Womack, App. 2 Cir.1996, 669 So.2d 700, 28,310 \(La.App. 2 Cir. 2/28/96\)](#). Infants  173.1



10. Caretaker

Defendant was "caretaker" of child victim, within scope of statute prohibiting cruelty to juvenile, as predicate offense for second degree murder; defendant was child's grandfather, child and mother lived in defendant's home for entire period of child's life, and defendant admitted that he was responsible for disciplining and providing for child. [State v. Booker, App. 1 Cir.2003, 839 So.2d 455, 2002-1269 \(La.App. 1 Cir. 2/14/03\)](#), rehearing denied, writ denied [857 So.2d 476, 2003-1145 \(La. 10/31/03\)](#). Homicide  **603**; Infants  13

11. Duty to report abuse

Since a social worker is considered a **mandatory reporter**, if a child is assaulted by a teacher or other official, and social worker feels this assault rises to level of abuse, social worker must report assault to local or state enforcement agency, or possibly liability. Op.Atty.Gen. No. 97-65, November 6, 1997.

12. Presumptions and burden of proof

In proceeding to determine if child, who had been adjudicated in need of care, should be placed with relatives, as opposed to his natural parents, the state not only had to overcome the presumption that vesting custody in the parents was in the best interests of child, but also had to prove that awarding custody to parents would be detrimental to child. [In re H.B., App. 3 Cir.1999, 747 So.2d 144, 1999-565 \(La.App. 3 Cir. 10/13/99\)](#). Infants  172; Infants  222

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