Montana Code Annotated 2021

TITLE 41. MINORS

CHAPTER 3. CHILD ABUSE AND NEGLECT

Part 1. General

Definitions

**41-3-102. Definitions.** As used in this chapter, the following definitions apply:

(1) (a) "Abandon", "abandoned", and "abandonment" mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in [**40-6-402**](https://leg.mt.gov/bills/mca/title_0400/chapter_0060/part_0040/section_0020/0400-0060-0040-0020.html), by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in [**40-6-402**](https://leg.mt.gov/bills/mca/title_0400/chapter_0060/part_0040/section_0020/0400-0060-0040-0020.html).

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) "A person responsible for a child's welfare" means:

(a) the child's parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child's welfare in a residential setting.

(3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) "Adequate health care" means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) "Best interests of the child" means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) "Child" or "youth" means any person under 18 years of age.

(7) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare;

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by [**45-9-101**](https://leg.mt.gov/bills/mca/title_0450/chapter_0090/part_0010/section_0010/0450-0090-0010-0010.html), the criminal production or manufacture of dangerous drugs, as prohibited by [**45-9-110**](https://leg.mt.gov/bills/mca/title_0450/chapter_0090/part_0010/section_0100/0450-0090-0010-0100.html), or the operation of an unlawful clandestine laboratory, as prohibited by [**45-9-132**](https://leg.mt.gov/bills/mca/title_0450/chapter_0090/part_0010/section_0320/0450-0090-0010-0320.html); or

(C) any form of child sex trafficking or human trafficking.