

**APPENDIX A**



**MEMORANDUM OF UNDERSTANDING AMONG CERTAIN ORGANIZATIONS  
AND the COUNTY PROSECUTORS  
REGARDING the REPORTING of CERTAIN OFFENSES**

**MEMORANDUM of UNDERSTANDING for the DIOCESE of METUCHEN**

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## **Article 1 Preamble**

The parties to this Memorandum pledge their continuing commitment to work together to protect victims of crimes. The parties recognize the value of cooperation and communication and the need to have in place clearly defined policies and procedures so that all employees of the signatory organization know what they are expected to do when in the course of their professional duties they have reasonable cause to believe that certain crimes have been committed. The parties are committed to addressing and alleviating the injuries caused by these crimes and to preventing the reoccurrence of such crimes to the greatest extent possible.

## **Article 2 Statement of Policies, Findings and Objectives**

1. The parties to this Memorandum will continue to work together to prevent criminal activity. The parties recognize that the crimes addressed in this Memorandum are serious matters that warrant a full and prompt investigation by appropriate law enforcement authorities.

2. The parties recognize that this Memorandum calls for the sharing of information that may or may not result in a prosecution. Circumstances that may preclude prosecution include, but are not limited to, insufficient facts to sustain a prosecution or conviction, a statute of limitations, or a determination by the appropriate prosecuting authority that prosecution would not be appropriate considering the interests of the victim. The parties nonetheless recognize that it is ultimately the responsibility of the prosecutor to decide when and how to conduct a criminal investigation, and whether it is appropriate to present a matter to a grand jury to decide whether to initiate a criminal prosecution under the laws of the State of New Jersey.

## **Article 3 Definitions**

For the purposes of this Memorandum “Employee” means any person who is employed by a signatory organization or a subdivision thereof in any activity under the auspices of the signatory organization or the subdivision. “Employee” shall

not mean anyone who is employed by any health care or skilled nursing facility, college or university owned by, or operated under the auspices of any signatory organization.

“Crime” means any of the following offenses under New Jersey law, or an attempt or conspiracy to commit any of the following offenses:

Sexual assault and aggravated sexual assault, as defined in N.J.S.A. 2C:14-2;

Criminal sexual contact and aggravated criminal sexual contact, as defined in N.J.S.A. 2C:14-3;

Child abuse, as defined in N.J.S.A. 9:6-1, 9:6-3 and 9:6-8.21. The term child abuse shall include any act constituting the offense of endangering the welfare of a child, as defined in N.J.S.A. 2C:24-4, including, but not limited to, sexual conduct which would impair or debauch the morals of the child, the offense of photographing or filming a child engaged in a prohibited sexual act as defined in N.J.S.A. 2C:24-4b(3), the offense of distribution of child pornography as defined in N.J.S.A. 2C:24-4b4(a), the offense of knowing possession or viewing of child pornography as defined in N.J.S.A. 2C:24-4b4(b), the offense of luring or enticing a child as defined in N.J.S.A. 2C:13-6, and the offense of lewdness as defined in N.J.S.A. 2C:14-4b where the offense involves a victim who at the time of the offense was less than 18 years of age.

#### **Article 4 Liaisons**

The signatories to this Memorandum will each designate one or more persons to serve as liaisons. The roles and functions of these liaisons are to:

1. Facilitate communication and cooperation between the signatory organization, the county prosecutors and the Division of Criminal Justice;
2. Provide and receive information concerning the crimes specified herein;
3. Identify issues or problems that arise in the implementation of this Memorandum and facilitate the resolution of any such problems, and

4. Act as the primary contact persons between the signatory organizations, the county prosecutors' offices and the Division of Criminal Justice.

Within 30 days following the execution of this Memorandum, the undersigned county prosecutors, the Division of Criminal Justice and the signatory organization shall identify in writing the names, addresses, and contact numbers for the liaisons designated above. This information shall be updated by the county prosecutors, the Division of Criminal Justice and the signatory organization upon any change in the liaisons, and at least annually.

## **Article 5 Referral of Matters for Investigation**

### **5.1 - Obligation to Report Certain Crimes**

Subject only to the provisions of Section 5.3 of this Memorandum, whenever any employee of the signatory organization in the course of his or her employment or professional responsibilities has received or discovered information which establishes reasonable cause to believe that a crime as defined in Article 3 of this Memorandum has been committed, the employee shall *immediately* report the information to the liaison designated by the signatory organization who, subject only to the provisions of Section 5.3 of this Memorandum, shall then promptly notify the appropriate county prosecutor's office having jurisdiction over the matter, except that notification to the appropriate county prosecutor's office shall be made *immediately* when there is reason to believe that the criminal conduct is continuing to occur, or is about to occur, or where such conduct has recently occurred under circumstances where it is reasonable to believe that physical evidence of the criminal conduct might be destroyed or otherwise lost as a result of any delay in initiating a law enforcement investigation. Where more than one county prosecutor may have jurisdiction over the matter (that is, where the suspected criminal conduct occurred in more than one county), the designated liaison shall notify all appropriate county prosecutors, or shall notify the Division of Criminal Justice if the location of an offense is uncertain or the offense occurred outside the jurisdiction of the undersigned county prosecutors.

Matters that will be reported to the county prosecutor pursuant to this Article include, but are not limited to, the following circumstances:

1. A person whose identity is known to an employee

of a signatory organization, or who appears in person, reports to the employee of a signatory organization that he or she is a victim of a crime addressed by this Memorandum, or claims to be the parent, guardian or legal custodian of a person alleged to be the victim of a crime addressed by this Memorandum; or

2. An employee of a signatory organization receives information pertaining to a crime addressed by this Memorandum that causes the signatory organization to assign an employee or response team to investigate the matter.

## **5.2 Obligation to Immediately Report Kidnapping of a Minor to Police**

Subject only to the provisions of Section 5.3, whenever any employee of the signatory organization in the course of his or her employment or professional responsibilities has received or discovered information which establishes reasonable cause to believe that a minor has been, is, or is about to be kidnapped, the employee shall immediately notify the local police department having jurisdiction over the matter by means of the 9-1-1 system.

## **5.3 Privileges**

Nothing in this Memorandum is intended to abrogate or impair any privilege including, but not limited to, those currently codified at N.J.S.A. 2A:84A-23 (Evid.R.511) and N.J.S.A. 2A:84A-22.15 (Evid.R.517).

## **5.4 Consent of Victim Not Required**

Subject only to the requirements of Section 5.3, the obligation to report suspected crimes pursuant to Section 5.1 and 5.2 is not dependent upon the consent of the victim, or of the parent or legal guardian of a minor victim, or of any person providing information about the crime.

## **5.5 Information to be Provided**

The notification to the county prosecutor's office pursuant to Section 5.1 shall include all information about the incident or incidents, including, where known, (a) the name, address and age of the victim; (b) in the case of a child victim, the name and address of the victim's parent, guardian or other person having custody and control of the victim; (c) the nature and extent of any injuries suffered by the victim, including information concerning any previous injuries or abuse; (d) the identity and present whereabouts of the person suspected of

committing the offense; and (e) any other information that may be helpful with respect to a full and prompt investigation of the matter.

### **5.6 Nonaccusatorial Nature of the Referral**

A referral of information to the county prosecutor's Office is only a transmittal of information that might be pertinent to a law enforcement investigation. A referral of information is not an accusation or formal charge.

### **5.7 Supersedure of Civil Confidentiality Agreements**

The parties recognize that to resolve potential or actual civil claims, it might be appropriate to enter into confidentiality agreements, which would protect and advance privacy interests from public disclosure. However, reporting of crimes pursuant to Section 5.1 or Section 5.2 of this Memorandum shall not be excused or otherwise affected in any way by the terms of a confidentiality clause contained in an agreement to settle a claim.

### **5.8 Commitment to Ongoing Cooperation**

The signatory organization will fully cooperate with the county prosecutor on an ongoing basis.

A county prosecutor will not serve a grand jury subpoena upon a signatory party for documents or testimony concerning a crime that has been reported pursuant to Section 5.1 or Section 5.2 of this Memorandum without first notifying the designated liaison, and, upon the request of the liaison, without first conferring with the Director of the Division of Criminal Justice or his designee.

## **Article 6 Preserving Confidentiality of Investigative Information Provided Pursuant to this Memorandum**

It is the intent and expectation of the parties that all information provided to a county prosecutor pursuant to Section 5.1 of this Memorandum will be kept strictly confidential and will only be used for law enforcement investigative purposes. The parties recognize that information and documents provided

pursuant to Section 5.1 of this Memorandum are criminal investigatory records within the meaning of P.L. 2001, c. 404, and as such are permanently exempt from the public disclosure requirements of that statute. The county prosecutor will not disclose information or documents provided pursuant to Section 5.1 of this Memorandum to any person, other than to a law enforcement officer or, where appropriate, to the Division of Youth and Family Services or other government agency, unless such disclosure is required by Court Rules governing the discovery and inspection of material by a person charged with a criminal offence, or unless the disclosure is required by an order of a court of competent jurisdiction. Before disclosing any such information or documents that had been provided pursuant to Section 5.1 of this Memorandum, the county prosecutor will notify the designated liaison who had provided the information or documents, and will, upon the request of the liaison, confer with the Director of the Division of Criminal Justice or his designee to discuss any applicable grounds for objecting to the disclosure.

#### **Article 7 Notification of Reporting Responsibilities to Employees of Signatory Organization**

The signatory organization shall use all appropriate means to advise all employees about what they are to do when they learn of possible criminal conduct of the type discussed in this Memorandum, and shall establish and maintain an internal communications and reporting system to ensure that information about crimes is immediately reported by the employees to the designated liaison, and is then referred promptly (or immediately, as may be required by the terms of this Memorandum) to the appropriate county prosecutor's office. The signatory organization shall inform new employees, and regularly remind existing employees, of what they are to do when they learn of possible criminal conduct of the type discussed in this Memorandum.

#### **Article 8 Limited Scope of the Memorandum**

This Memorandum is intended to express the commitment of the parties to work cooperatively with each other. Nothing in this Memorandum is intended to, or shall be construed to, impose any duty or obligation of any type, kind, nature or description upon any person or entity and nothing herein shall be construed in any way to create any rights, substantive, procedural or otherwise or confer any private right of action upon any individual or entity against any signatory organization or any officer, agent, trustee, director, servant or employee of such entity.

## **Article 9 Maintenance of the Memorandum**

The parties shall revisit this Memorandum of Understanding as the need may arise, but in no event later than five years from the date of execution by the parties.

**APPENDIX**

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## APPENDIX

### RELEVANT STATUTES REFERENCED IN THE MEMORANDUM OF UNDERSTANDING

#### **2C:14-2. Sexual assault.**

a. An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

- (1) The victim is less than 13 years old;
- (2) The victim is at least 13 but less than 16 years old; and
- (a) The actor is related to the victim by blood or affinity to the third degree, or
- (b) The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or
- (c) The actor is a foster parent, a guardian, or stands in loco parentis within the household;
- (3) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson or criminal escape;
- (4) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;
- (5) The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion;
- (6) The actor uses physical force or coercion and severe personal injury is sustained by the victim;
- (7) The victim is one whom the actor knew or should have known was physically helpless, mentally defective or mentally incapacitated.

Aggravated sexual assault is a crime of the first degree.

b. An actor is guilty of sexual assault if he commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim.

c. An actor is guilty of sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

- (1) The actor uses physical force or coercion, but the victim does not sustain severe personal injury;
- (2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status;
- (3) The victim is at least 16 but less than 18 years old and:
  - (a) The actor is related to the victim by blood or affinity to the third degree; or
  - (b) The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or
  - (c) The actor is a foster parent, a guardian, or stands in loco parentis within the household;
- (4) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim.

Sexual assault is a crime of the second degree.

**2C:14-3. Aggravated criminal sexual contact; criminal sexual contact.**

a. An actor is guilty of aggravated criminal sexual contact if he commits an act of sexual contact with the victim under any of the circumstances set forth in 2C:14-2a. (2) through(7).

Aggravated criminal sexual contact is a crime of the third degree.

b. An actor is guilty of criminal sexual contact if he commits an act of sexual contact with the victim under any of the circumstances set forth in section 2C:14-2c. (1) through(4).

Criminal sexual contact is a crime of the fourth degree.

**2C:14-4. Lewdness.**

a. A person commits a disorderly persons offense if he does any flagrantly lewd and offensive act which he knows or reasonably expects is likely to be observed by other nonconsenting persons who would be affronted or alarmed.

b. A person commits a crime of the fourth degree if:

(1) He exposes his intimate parts for the purpose of arousing or gratifying the sexual desire of the actor or of any other person under circumstances where the actor knows or reasonably expects he is likely to be observed by a child who is less than 13 years of age where the actor is at least four years older than the child.

(2) He exposes his intimate parts for the purpose of arousing or gratifying the sexual desire of the actor or of any other person under circumstances where the actor knows or reasonably expects he is likely to be observed by a person who because of mental disease or defect is unable to understand the sexual nature of the actor's conduct.

c. As used in this section:

"lewd acts" shall include the exposing of the genitals for the purpose of arousing or gratifying the sexual desire of the actor or of any other person.

**2C:13-6. Luring, enticing child by various means, attempts; crime of third degree; subsequent offense, mandatory imprisonment.**

1. A person commits a crime of the third degree if he attempts, via electronic or any other means, to lure or entice a child or one who he reasonably believes to be a child into a motor vehicle, structure or isolated area, or to meet or appear at any other place, with a purpose to commit a criminal offense with or against the child.

"Child" as used in this act means a person less than 18 years old.

"Electronic means" as used in this section includes, but is not limited to, the Internet, which shall have the meaning set forth in N.J.S. 2C:24-4.

"Structure" as used in this act means any building, room, ship, vessel or airplane and also means any place adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present.

Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for attempted kidnapping under the provisions of N.J.S.2C:13-1.

A person convicted of a second or subsequent offense under this section shall be sentenced to a term of imprisonment. Notwithstanding the provisions of paragraph (3) of subsection a. of N.J.S.2C:43-6, the term of imprisonment shall include, unless the person is sentenced pursuant to the provisions of N.J.S.2C:43-7, a mandatory minimum term of one-third to one-half of the sentence imposed, or two years, whichever is greater, during which time the defendant shall not be eligible for parole. If the person is sentenced pursuant to N.J.S.2C:43-7, the court shall impose a minimum term of one-third to one-half of the sentence imposed, or three years, whichever is greater. The court may not suspend or make any other non-custodial disposition of any person sentenced as a second or subsequent offender pursuant to this section. For the purposes of this

section an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to this section, or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to this section.

#### **2C:24-4. Endangering Welfare of Children.**

a. Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in sexual conduct which would impair or debauch the morals of the child, or who causes the child harm that would make the child an abused or neglected child as defined in R.S.9:6-1, R.S.9:6-3 and P.L.1974, c.119, s.1 (C.9:6-8.21) is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this subsection to a child under the age of 16 is guilty of a crime of the third degree.

b. (1) As used in this subsection:

"Child" means any person under 16 years of age.

"Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.

"Prohibited sexual act" means

(a) Sexual intercourse; or

(b) Anal intercourse; or

(c) Masturbation; or

(d) Bestiality; or

(e) Sadism; or

(f) Masochism; or

(g) Fellatio; or

(h) Cunnilingus;

(i) Nudity, if depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction; or

(j) Any act of sexual penetration or sexual contact as defined in N.J.S.2C:14-1.

"Reproduction" means, but is not limited to, computer generated images.

(2) (Deleted by amendment, P.L.2001, c.291).

(3) A person commits a crime of the second degree if he causes or permits a child to engage in a prohibited sexual act or in the simulation of such an act if the person knows, has reason to know or intends that the prohibited act may be photographed, filmed, reproduced, or reconstructed in any manner, including on the Internet, or may be part of an exhibition or performance. If the person is a parent, guardian or other person legally charged with the care or custody of the child, the person shall be guilty of a crime of the first degree.

(4) Any person who photographs or films a child in a prohibited sexual act or in the simulation of such an act or who uses any device, including a computer, to reproduce or reconstruct the image of a child in a prohibited sexual act or in the simulation of such an act is guilty of a crime of the second degree.

(5) (a) Any person who knowingly receives for the purpose of selling or who knowingly sells, procures, manufactures, gives, provides, lends, trades, mails, delivers, transfers, publishes, distributes, circulates, disseminates, presents, exhibits, advertises, offers or agrees to offer, through any means, including the Internet, any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, is guilty of a crime of the second degree.

(b) Any person who knowingly possesses or knowingly views any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, including on the Internet, is guilty of a crime of the fourth degree.

(6) For purposes of this subsection, a person who is depicted as or presents the appearance of being under the age of 16 in any photograph, film, videotape, computer program or file, video game

or any other reproduction or reconstruction shall be rebuttably presumed to be under the age of 16. If the child who is depicted as engaging in, or who is caused to engage in, a prohibited sexual act or simulation of a prohibited sexual act is under the age of 16, the actor shall be strictly liable and it shall not be a defense that the actor did not know that the child was under the age of 16, nor shall it be a defense that the actor believed that the child was 16 years of age or older, even if such a mistaken belief was reasonable.

### **9:6-1. Abuse, abandonment, cruelty and neglect of child; what constitutes**

Abuse of a child shall consist in any of the following acts: (a) disposing of the custody of a child contrary to law; (b) employing or permitting a child to be employed in any vocation or employment injurious to its health or dangerous to its life or limb, or contrary to the laws of this State; (c) employing or permitting a child to be employed in any occupation, employment or vocation dangerous to the morals of such child; (d) the habitual use by the parent or by a person having the custody and control of a child, in the hearing of such child, of profane, indecent or obscene language; (e) the performing of any indecent, immoral or unlawful act or deed, in the presence of a child, that may tend to debauch or endanger or degrade the morals of the child; (f) permitting or allowing any other person to perform any indecent, immoral or unlawful act in the presence of the child that may tend to debauch or endanger the morals of such child; (g) using excessive physical restraint on the child under circumstances which do not indicate that the child's behavior is harmful to himself, others or property; or (h) in an institution as defined in section 1 of P.L.1974, c. 119 (C. 9:6-8.21), willfully isolating the child from ordinary social contact under circumstances which indicate emotional or social deprivation.

Abandonment of a child shall consist in any of the following acts by anyone having the custody or control of the child: (a) willfully forsaking a child; (b) failing to care for and keep the control and custody of a child so that the child shall be exposed to physical or moral risk without proper and sufficient protection; (c) failing to care for and keep the control and custody of a child so that the child shall be liable to be supported and maintained at the expense of the public, or by child caring societies or private persons not legally chargeable with its or their care, custody and control.

Cruelty to a child shall consist in any of the following acts: (a) inflicting unnecessarily severe corporal punishment upon a child; (b) inflicting upon a child unnecessary suffering or pain, either mental or physical; (c) habitually tormenting, vexing or afflicting a child; (d) any willful act of omission or commission whereby unnecessary pain and suffering, whether mental or physical, is caused or permitted to be inflicted on a child; (e) or exposing a child to unnecessary hardship, fatigue or mental or physical strains that may tend to injure the health or physical or moral well-being of such child.

Neglect of a child shall consist in any of the following acts, by anyone having the custody or control of the child: (a) willfully failing to provide proper and sufficient food, clothing, maintenance, regular school education as required by law, medical attendance or surgical treatment, and a clean and proper home, or (b) failure to do or permit to be done any act necessary for the child's physical or moral well-being. Neglect also means the continued inappropriate placement of a child in an institution, as defined in section 1 of P.L.1974, c. 119 (C. 9:6-8.21), with the knowledge that the placement has resulted and may continue to result in harm to the child's mental or physical well-being.

### **9:6-3. Cruelty and neglect of children; crime of fourth degree; remedies.**

Any parent, guardian or person having the care, custody or control of any child, who shall abuse, abandon, be cruel to or neglectful of such child, or any person who shall abuse, be cruel to or neglectful of any child shall be deemed to be guilty of a crime of the fourth degree. If a fine be imposed, the court may direct the same to be paid in whole or in part to the parent, or to the

guardian, custodian or trustee of such minor child or children; provided, however, that whenever in the judgment of the court it shall appear to the best interest of the child to place it in the temporary care or custody of a society or corporation, organized or incorporated under the laws of this State, having as one of its objects the prevention of cruelty to children, and the society or corporation is willing to assume such custody and control, the court may postpone sentence and place the child in the custody of such society or corporation, and may place defendant on probation, either with the county probation officers or an officer of the society or corporation to which the child is ordered, and may order the parent, guardian or person having the custody and control of such child to pay to such society or corporation a certain stated sum for the maintenance of such child. When, however, a child is so placed in the custody of such society or corporation, and defendant fails to make the payments as ordered by the court, the court shall cause the arrest and arraignment before it of such defendant, and shall impose upon the defendant the penalty provided in this section.

#### **9:6-8.21 Definitions.**

1. As used in this act, unless the specific context indicates otherwise:

a. "Parent or guardian" means any natural parent, adoptive parent, foster parent, stepparent, or any person, who has assumed responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care. Parent or guardian includes a teacher, employee or volunteer, whether compensated or uncompensated, of an institution who is responsible for the child's welfare and any other staff person of an institution regardless of whether or not the person is responsible for the care or supervision of the child. Parent or guardian also includes a teaching staff member or other employee, whether compensated or uncompensated, of a day school as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21).

b. "Child" means any child alleged to have been abused or neglected.

c. "Abused or neglected child" means a child less than 18 years of age whose parent or guardian, as herein defined, (1) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; (2) creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ; (3) commits or allows to be committed an act of sexual abuse against the child; (4) or a child whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his parent or guardian, as herein defined, to exercise a minimum degree of care (a) in supplying the child with adequate food, clothing, shelter, education, medical or surgical care though financially able to do so or though offered financial or other reasonable means to do so, or (b) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the court; (5) or a child who has been willfully abandoned by his parent or guardian, as herein defined; (6) or a child upon whom excessive physical restraint has been used under circumstances which do not indicate that the child's behavior is harmful to himself, others or property; (7) or a child who is in an institution and (a) has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being or (b) who has been willfully isolated from ordinary social contact under circumstances which indicate emotional or social deprivation.

A child shall not be considered abused or neglected pursuant to paragraph (7) of subsection c. of this section if the acts or omissions described therein occur in a day school as defined in this section.

No child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for this reason alone be considered to be abused or neglected.

d. "Law guardian" means an attorney admitted to the practice of law in this State, regularly employed by the Office of the Public Defender or appointed by the court, and designated under this act to represent minors in alleged cases of child abuse or neglect and in termination of parental rights proceedings.

e. "Attorney" means an attorney admitted to the practice of law in this State who shall be privately retained; or, in the instance of an indigent parent or guardian, an attorney from the Office of the Public Defender or an attorney appointed by the court who shall be appointed in order to avoid conflict between the interests of the child and the parent or guardian in regard to representation.

f. "Division" means the Division of Youth and Family Services in the Department of Human Services unless otherwise specified.

g. "Institution" means a public or private facility in the State which provides children with out of home care, supervision or maintenance. Institution includes, but is not limited to, a correctional facility, detention facility, treatment facility, day care center, residential school, shelter and hospital.

h. "Day school" means a public or private school which provides general or special educational services to day students in grades kindergarten through 12. Day school does not include a residential facility, whether public or private, which provides care on a 24-hour basis.