

## Glossary of Legal Terms

**Adjudicatory Hearings** – held by the juvenile and family court to determine whether a child has been maltreated or whether another legal basis exists for the State to intervene to protect the child.

**CASA** – court-appointed special advocates (usually volunteers) who serve to ensure that the needs and interests of a child in child protection judicial proceedings are fully protected.

**Civil Contempt** – the willful failure to do something that a court has ordered, such as refusing to testify when the court has found that no privilege applies or refusing to pay child support when there are ample funds to do so. The usual sanction is incarceration for a term that lasts until the person in contempt complies with the court order.

**Clear and Convincing Evidence** - This standard is a step up from the preponderance of the evidence standard. This standard requires that the evidence show that it is highly probable or probably certain that the thing alleged has occurred. This standard may apply to civil cases or some aspects of criminal cases. Some states use this standard to determine whether a search was voluntary.

**Complaint** – a document containing allegations of child abuse or neglect that is typically filed by the CPS attorney in juvenile court.

**Consent** – the right of a person to agree to, or refuse access to the home or children, or to refuse services, in a CPS case.

**Consent Decree** – a decree entered by a court that is determined by the parties' agreement; a settlement between the parties that is subject to judicial approval and supervision.

**Continuance** – an adjournment of a case from one day to another or to a later hour of the same day.

**Criminal Contempt** – an act that obstructs justice or attacks the integrity of the court that is punishable by fine or imprisonment or both. Criminal contempt may be indirect or direct. Indirect contempt is contempt occurring outside the courtroom, such as a willful violation of a court's order. Direct contempt is disruptive or disrespectful behavior that occurs in the presence of the judge, such as uttering an epithet when the judge announces an unfavorable decision.

**Cross-examination** – questioning of a witness by attorneys other than the one who called the person as a witness.

**Declaratory Judgment** – a court decision which simply declares the rights of the parties or expresses the opinion of the court on a question of law without ordering anything to be done.

**Delinquency** – the commitment of an offense by a youth of what would be a crime if he or she were an adult.

**Dependent Child** – as used in statutes providing for the care of dependent, neglected, and delinquent children, the term means dependent upon the public support; any child under the age of 18 who is destitute, or whose home by reason of neglect by the parents is an unfit place for such child, or whose father, mother, guardian, or custodian does not properly provide for such a child.

**Discovery** – pretrial process that allows each party to obtain information relevant to the case from the other parties.

**Depositions** – transcribed oral examinations under oath.

**Delinquency** – the commitment of an offense by a youth of what would be a crime if he or she were an adult.

**Dispositional Hearings** – held by the juvenile and family court to determine the legal resolution of cases after adjudication, such as whether placement of the child in out-of-home care is necessary, and what services the children and family will need to reduce the risk and to address the effects of maltreatment.

***Duces Tecum*** – a type of subpoena or court order that requires a person to produce for the court specified documents or records.

**Due Process** – The principle that every person has the protection of a day in court, representation by an attorney, and the benefit of procedures that are speedy, fair, and impartial.

**Exculpatory** – evidence or testimony that exonerates or clears the defendant.

***Ex Parte*** – on behalf of or involving only one party to a legal matter and in the absence of and usually without notice to the other party.

**Expert Testimony** – opinion testimony about a subject that is outside the judge’s or jury’s knowledge or experience, provided by a witness with established expertise on that subject.

**Full Disclosure** – information provided to the family regarding the steps in the CPS intervention process, the requirements of CPS, the expectations of the family, the consequences if the family does not fulfill the expectations, and the rights of the parents to ensure that the family completely understands the process.

**Guardian ad Litem** – a lawyer or layperson who represents a child in juvenile or family court. Usually this person considers the “best interest” of the child and may perform a variety of roles, including those of independent investigator, advocate, advisor, and guardian for the child. A layperson who serves in this role is sometimes known as a court-appointed special advocate or CASA.

**Hearsay** – an out-of-court statement made by someone other than the witness that is offered for the truth of that statement.

**Immunity** – established in all child abuse laws to protect reporters from civil law suits and criminal prosecution resulting from filing a report of child abuse and neglect.

**Informed Consent** – the ability of the parent consent after they understand the process and the consequences involved in the CPS service contract (case plan).

**Injunction** – an equitable remedy in the form of a court order compelling a party to do or refrain from doing a specified act.

**Jurisdiction** – the power or right to exercise authority.

**Juvenile and Family Courts** – established in most States to resolve conflict and to otherwise intervene in the lives of families in a manner that promotes the best interest of children. These courts specialize in areas such as child maltreatment, domestic violence, juvenile delinquency, divorce, child custody, and child support.

**Juvenile Drug Court** – a drug court that focuses on juvenile delinquency matters and status offenses that involve juveniles who are substance abusers.

**Litigant** – a party to a lawsuit.

**Mandated Reporter** – individuals required by State statutes to report suspected child abuse and neglect to the proper authorities (usually CPS or law enforcement agencies). Mandated reporters typically include professionals, such as educators and other school personnel, health care and mental health professionals, social workers, childcare providers, and law enforcement officers. Some States identify all citizens as mandated reporters.

**Neglect** – the failure to provide for a child’s basic needs. Neglect can be physical, educational, or emotional. *Physical neglect* can include not providing adequate food or clothing, appropriate medical care, supervision, or proper weather protection (heat or coats). *Educational neglect* includes failure to provide appropriate schooling, special educational needs, or allowing excessive truancies. *Psychological neglect* includes the lack of any emotional support and love, chronic inattention to the child, exposure to spouse abuse, or drug and alcohol abuse.

**Out-of-Home Care** – childcare, foster care, or residential care provided by persons, organizations, and institutions to children who are placed outside their families, usually under the jurisdiction of juvenile or family court.

**Overrule** – to set aside the authority of a former decision; the act of court in rejecting a motion or objection made by a party to a lawsuit.

***Parens Patriae Doctrine*** – originating in feudal England, a doctrine that vests in the State a right of guardianship of minors. This concept has gradually evolved into the principle that the community, in addition to the parent, has a strong interest in the care and nurturing of children. Schools, juvenile courts, and social service agencies all derive their authority from the State’s power to protect children who are unable to protect themselves.

**Parent or Caregiver** – person responsible for the care of the child.

**Paternity** - Establishing paternity is the legal process of determining the biological father of a child. When parents are married, in most cases, paternity is established without legal action.

... Establishing paternity is necessary before custody, visitation and child support may be ordered by the court. In Ohio, a father must approach the court to establish a legal relationship with the child.

**Physical Abuse** – the inflicting of a nonaccidental physical injury upon a child. This may include, burning, hitting, punching, shaking, kicking, beating, or otherwise harming a child. It may, however, have been the result of over-discipline or physical punishment that is inappropriate to the child’s age.

**Plaintiff** – the person or entity bringing a complaint to the court.

**Preponderance of the Evidence** – the burden of proof for civil cases in most States, including child maltreatment proceedings. The attorney for CPS or other petitioner must show by a preponderance of evidence that the abuse or neglect happened. This standard means that the evidence is more credible than the evidence presented by the defendant party.

**Proof Beyond a Reasonable Doubt** - Proof beyond a reasonable doubt refers to the standard of proof in criminal prosecutions. The prosecutor has the duty to convince the jury by proof beyond a reasonable doubt of each and every element of the crime before a jury should convict a defendant. Because a person's freedom is on the line, the highest standard of proof is used. The United States Supreme Court has specifically stated that it is much worse to convict an innocent person than to allow a guilty one to go free. This standard of proof is specifically required by the due process clause of the Fifth Amendment to the federal United States Constitution.

**Psychological Maltreatment (Mental Injury)** – a pattern of caregiver behavior or extreme incidents that convey to children that they are worthless, flawed, unloved, unwanted, endangered, or only of value to meeting another's needs. This can include parents or caretakers using extreme or bizarre forms of punishment or threatening or terrorizing a child. The term "psychological maltreatment" is also known as emotional abuse or neglect, verbal abuse, or mental abuse.

**Putative Father** – the alleged or supposed male parent; the person alleged to have fathered a child whose parentage is at issue.

**Respondent** – an answering party in a proceeding in juvenile or family court.

**Review Hearings** – held by the juvenile and family court to review dispositions (usually every 6 months) and to determine the need to maintain placement in out-of-home care or court jurisdiction of a child.

**Risk** – the likelihood that a child will be maltreated in the future.

**Risk Assessment** – to assess and measure the likelihood that a child will be maltreated in the future, frequently through the use of checklists, matrices, scales, and other methods of measurement.

**Safety** – absence of an imminent or immediate threat of moderate-to-serious harm to the child.

**Safety Assessment** – a part of the CPS case process in which available information is analyzed to identify whether a child is in immediate danger of moderate or serious harm.

**Safety Plan** – a casework document developed when it is determined that the child is in imminent or potential risk of serious harm. In the safety plan, the caseworker targets the factors that are causing or contributing to the risk of imminent serious harm to the child, and identifies, along with the family, the interventions that will control the safety factors and ensure the child's protection.

**Sexual Abuse** – inappropriate adolescent or adult sexual behavior with a child. It includes fondling a child's genitals, making the child fondle the adult's genitals, intercourse, incest, rape, sodomy, exhibitionism, sexual exploitation, or exposure to pornography. To be considered child abuse, these acts have to be committed by a person responsible for the care of a child (for example a baby-sitter, a parent, or a daycare provider) or related to the child. If a stranger commits these acts, it would be considered sexual assault and handled solely by the police and criminal courts.

**Status Off ender** – a juvenile under the jurisdiction of the court because of acts that would not be criminal if committed by an adult, but that indicate that the child is beyond parental control.

**Status Offenses** – transgressions of children that would not be crimes if they were legal age; primarily involve running away and truancy. The age for bringing such charges varies from State to State.

**Sustain** – to allow or uphold as valid.

**Termination of Parental Rights Hearing** – a legal proceeding to free a child from a parent's legal custody so that others can adopt the child. The legal basis for termination of parental rights differs from State to State, but most States consider the failure of the parent to support or communicate with the child for a specified period, parental failure to improve home conditions, extreme or repeated neglect or abuse, parental incapacity to care for the child, and/or extreme deterioration of the parent-child relationship. In making this finding, the court is determining that the parents will not be able to provide adequate care for the child in the future by using a standard of clear and convincing evidence. This burden of proof is higher than preponderance of the evidence, which is used in civil abuse or neglect cases where termination is not sought.