

**Effective 9/1/2021**

**Superseded 9/1/2021**

**80-1-102 Juvenile code definitions.**

As used in this title:

- (1)
  - (a) "Abuse" means:
    - (i)
      - (A) nonaccidental harm of a child;
      - (B) threatened harm of a child;
      - (C) sexual exploitation;
      - (D) sexual abuse; or
      - (E) human trafficking of a child in violation of Section 76-5-308.5; or
    - (ii) that a child's natural parent:
      - (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
      - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
      - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.
  - (b) "Abuse" does not include:
    - (i) reasonable discipline or management of a child, including withholding privileges;
    - (ii) conduct described in Section 76-2-401; or
    - (iii) the use of reasonable and necessary physical restraint or force on a child:
      - (A) in self-defense;
      - (B) in defense of others;
      - (C) to protect the child; or
      - (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).
- (2) "Abused child" means a child who has been subjected to abuse.
- (3)
  - (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.
  - (b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.
- (4)
  - (a) "Adult" means an individual who is 18 years old or older.
  - (b) "Adult" does not include an individual:
    - (i) who is 18 years old or older; and
    - (ii) who is a minor.
- (5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- (6) "Board" means the Board of Juvenile Court Judges.
- (7) "Child" means an individual who is under 18 years old.
- (8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 62A-4a-205.
- (9) "Child placement agency" means:
  - (a) a private agency licensed to receive a child for placement or adoption under this code; or
  - (b) a private agency that receives a child for placement or adoption in another state, which is licensed or approved where such license or approval is required by law.

- (10) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.
- (11) "Commit" or "committed" means, unless specified otherwise:
  - (a) with respect to a child, to transfer legal custody; and
  - (b) with respect to a minor who is at least 18 years old, to transfer custody.
- (12) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.
- (13) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.
- (14) "Correctional facility" means:
  - (a) a county jail; or
  - (b) a secure correctional facility as defined in Section 64-13-1.
- (15) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.
- (16) "Department" means the Department of Human Services created in Section 62A-1-102.
- (17) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.
- (18) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.
- (19) "Detention" means home detention or secure detention.
- (20) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:
  - (a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and
  - (b) is designed to assist in making a determination of whether a minor shall be held in detention.
- (21) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:
  - (a) consult with counsel with a reasonable degree of rational understanding; and
  - (b) have a rational as well as factual understanding of the proceedings.
- (22) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- (23) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.
- (24) "Educational series" means an evidence-based instructional series:
  - (a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and
  - (b) designed to prevent substance use or the onset of a mental health disorder.
- (25) "Emancipated" means the same as that term is defined in Section 80-7-102.
- (26) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.
- (27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- (28) "Formal probation" means a minor is:
  - (a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and
  - (b) subject to return to the juvenile court in accordance with Section 80-6-607.

- (29) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.
- (30) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:
- (a) marriage;
  - (b) enlistment in the armed forces;
  - (c) major medical, surgical, or psychiatric treatment; or
  - (d) legal custody, if legal custody is not vested in another individual, agency, or institution.
- (31) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- (32) "Harm" means:
- (a) physical or developmental injury or damage;
  - (b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;
  - (c) sexual abuse; or
  - (d) sexual exploitation.
- (33) "Home detention" means placement of a minor:
- (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or
  - (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.
- (34)
- (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.
  - (b) "Incest" includes:
    - (i) blood relationships of the whole or half blood, without regard to legitimacy;
    - (ii) relationships of parent and child by adoption; and
    - (iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.
- (35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- (36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- (37) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.
- (38) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.
- (39) "Indigent individual" means the same as that term is defined in Section 78B-22-102.
- (40)
- (a) "Intake probation" means a minor is:
    - (i) monitored by a juvenile probation officer; and
    - (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
  - (b) "Intake probation" does not include formal probation.
- (41) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.
- (42) "Juvenile offender" means:
- (a) a serious youth offender; or

- (b) a youth offender.
- (43) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.
- (44) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under Section 80-6-201.
- (45) "Legal custody" means a relationship embodying:
  - (a) the right to physical custody of the minor;
  - (b) the right and duty to protect, train, and discipline the minor;
  - (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
  - (d) the right to determine where and with whom the minor shall live; and
  - (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- (46) "Mental illness" means:
  - (a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or
  - (b) the same as that term is defined in:
    - (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or
    - (ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.
- (47) "Minor" means, except as provided in Sections 80-6-901 and 80-7-102:
  - (a) a child; or
  - (b) an individual:
    - (i)
      - (A) who is at least 18 years old and younger than 21 years old; and
      - (B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; or
    - (ii)
      - (A) who is at least 18 years old and younger than 25 years old; and
      - (B) whose case is under the continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.
- (48) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.
- (49) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.
- (50)
  - (a) "Natural parent" means a minor's biological or adoptive parent.
  - (b) "Natural parent" includes the minor's noncustodial parent.
- (51)
  - (a) "Neglect" means action or inaction causing:
    - (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;
    - (ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;
    - (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

- (iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;
  - (v) abandonment of a child through an unregulated custody transfer; or
  - (vi) educational neglect.
- (b) "Neglect" does not include:
- (i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;
  - (ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;
  - (iii) a parent or guardian exercising the right described in Section 80-3-304; or
  - (iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:
    - (A) traveling to and from school, including by walking, running, or bicycling;
    - (B) traveling to and from nearby commercial or recreational facilities;
    - (C) engaging in outdoor play;
    - (D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);
    - (E) remaining at home unattended; or
    - (F) engaging in a similar independent activity.
- (52) "Neglected child" means a child who has been subjected to neglect.
- (53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:
- (a) the assigned juvenile probation officer; and
  - (b)
    - (i) the minor; or
    - (ii) the minor and the minor's parent, legal guardian, or custodian.
- (54) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:
- (a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or
  - (b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.
- (55) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.
- (56) "Physical abuse" means abuse that results in physical injury or damage to a child.
- (57)
- (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.
  - (b) "Probation" includes intake probation or formal probation.
- (58) "Prosecuting attorney" means:
- (a) the attorney general and any assistant attorney general;
  - (b) any district attorney or deputy district attorney;
  - (c) any county attorney or assistant county attorney; and
  - (d) any other attorney authorized to commence an action on behalf of the state.

- (59) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:
- (a) the day on which the shelter hearing is held under Section 80-3-301; or
  - (b) the day on which the child is returned home.
- (60) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:
- (a) the minor is permitted to remain in the minor's home; and
  - (b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.
- (61)
- (a) "Related condition" means a condition that:
    - (i) is found to be closely related to intellectual disability;
    - (ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;
    - (iii) is likely to continue indefinitely; and
    - (iv) constitutes a substantial limitation to the individual's ability to function in society.
  - (b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.
- (62)
- (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:
    - (i) the responsibility for support;
    - (ii) the right to consent to adoption;
    - (iii) the right to determine the child's religious affiliation; and
    - (iv) the right to reasonable parent-time unless restricted by the court.
  - (b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:
    - (i) marriage;
    - (ii) enlistment; and
    - (iii) major medical, surgical, or psychiatric treatment.
- (63) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.
- (64) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.
- (65) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.
- (66) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:
- (a) before disposition of an offense that is alleged to have been committed by the minor; or
  - (b) under Section 80-6-704.
- (67) "Serious youth offender" means an individual who:
- (a) is at least 14 years old, but under 25 years old;

- (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and
  - (c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.
- (68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.
- (69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.
- (70) "Sexual abuse" means:
- (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;
  - (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:
    - (i) there is an indication of force or coercion;
    - (ii) the children are related, as described in Subsection (34), including siblings by marriage while the marriage exists or by adoption;
    - (iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or
    - (iv) there is a disparity in chronological age of four or more years between the two children;
  - (c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:
    - (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;
    - (ii) child bigamy, Section 76-7-101.5;
    - (iii) incest, Section 76-7-102;
    - (iv) lewdness, Section 76-9-702;
    - (v) sexual battery, Section 76-9-702.1;
    - (vi) lewdness involving a child, Section 76-9-702.5; or
    - (vii) voyeurism, Section 76-9-702.7; or
  - (d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.
- (71) "Sexual exploitation" means knowingly:
- (a) employing, using, persuading, inducing, enticing, or coercing any child to:
    - (i) pose in the nude for the purpose of sexual arousal of any individual; or
    - (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;
  - (b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:
    - (i) in the nude, for the purpose of sexual arousal of any individual; or
    - (ii) engaging in sexual or simulated sexual conduct; or
  - (c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.
- (72) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.
- (73) "Shelter facility" means the same as that term is defined in Section 62A-4a-101.
- (74) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

- (75) "Status offense" means an offense that would not be an offense but for the age of the offender.
- (76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.
- (77) "Substantiated" means the same as that term is defined in Section 62A-4a-101.
- (78) "Supported" means the same as that term is defined in Section 62A-4a-101.
- (79) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.
- (80) "Therapist" means:
  - (a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or
  - (b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.
- (81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.
- (82) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:
  - (a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;
  - (b) poses a threat to the safety or well-being of the child, the child's family, or others; or
  - (c) results in the situations described in Subsections (82)(a) and (b).
- (83) "Unregulated custody transfer" means the placement of a child:
  - (a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;
  - (b) with the intent of severing the child's existing parent-child or guardian-child relationship; and
  - (c) without taking:
    - (i) reasonable steps to ensure the safety of the child and permanency of the placement; and
    - (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.
- (84) "Unsupported" means the same as that term is defined in Section 62A-4a-101.
- (85) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.
- (86) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.
- (87) "Without merit" means the same as that term is defined in Section 62A-4a-101.
- (88) "Youth offender" means an individual who is:
  - (a) at least 12 years old, but under 21 years old; and
  - (b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.