§ 1012. Definitions. When used in this article and unless the specific context indicates otherwise:

(a) "Respondent" includes any parent or other person legally responsible for a child's care who is alleged to have abused or neglected such child;

(b) "Child" means any person or persons alleged to have been abused or neglected, whichever the case may be;

(c) "A case involving abuse" means any proceeding under this article in which there are allegations that one or more of the children of, or the legal responsibility of, the respondent are abused children;

(d) "Drug" means any substance defined as a controlled substance in section thirty-three hundred six of the public health law;

(e) "Abused child" means a child less than eighteen years of age whose parent or other person legally responsible for his care

(i) 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, or

(ii) creates or allows to be created a substantial 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 impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, or

(iii) (A) commits, or allows to be committed an offense against such child defined in article one hundred thirty of the penal law; (B) allows, permits or encourages such child to engage in any act described in sections 230.25, 230.30, 230.32 and 230.34-a of the penal law; (C) commits any of the acts described in sections 255.25, 255.26 and 255.27 of the penal law; (D) allows such child to engage in acts or conduct described in article two hundred sixty-three of the penal law; or (E) permits or encourages such child to engage in any act or commits or allows to be committed against such child any offense that would render such child either a victim of sex trafficking or a victim of severe forms of trafficking in persons pursuant to 22 U.S.C. 7102 as enacted by public law 106-386 or any successor federal statute; (F) provided, however, that (1) the corroboration requirements contained in the penal

law and (2) the age requirement for the application of article two hundred sixty-three of such law shall not apply to proceedings under this article.

(f) "Neglected child" means a child less than eighteen years of age

(i) whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care

(A) in supplying the child with adequate food, clothing, shelter or education in accordance with the provisions of part one of article sixty-five of the education law, or medical, dental, optometrical or surgical care, though financially able to do so or offered financial or other reasonable means to do so, or, in the case of an alleged failure of the respondent to provide education to the child, notwithstanding the efforts of the school district or local educational agency and child protective agency to ameliorate such alleged failure prior to the filing of the petition; or

(B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as set forth in paragraph (i) of this subdivision; or

(ii) who has been abandoned, in accordance with the definition and other criteria set forth in subdivision five of section three hundred eighty-four-b of the social services law, by his parents or other person legally responsible for his care.

(g) "Person legally responsible" includes the child's custodian, guardian, any other person responsible for the child's care at the

relevant time. Custodian may include any person continually or at regular intervals found in the same household as the child when the conduct of such person causes or contributes to the abuse or neglect of the child.

(h) "Impairment of emotional health" and "impairment of mental or emotional condition" includes a state of substantially diminished psychological or intellectual functioning in relation to, but not limited to, such factors as failure to thrive, control of aggressive or self-destructive impulses, ability to think and reason, or acting out or misbehavior, including ungovernability or habitual truancy; provided, however, that such impairment must be clearly attributable to the unwillingness or inability of the respondent to exercise a minimum degree of care toward the child.

(i) "Child protective agency" means the child protective service of the appropriate local department of social services or such other agencies with whom the local department has arranged for the provision of child protective services under the local plan for child protective services or an Indian tribe that has entered into an agreement with the state department of social services pursuant to section thirty-nine of the social services law to provide child protective services.

(j) "Aggravated circumstances" means where a child has been either severely or repeatedly abused, as defined in subdivision eight of section three hundred eighty-four-b of the social services law; or where a child has subsequently been found to be an abused child, as defined in paragraph (i) or (iii) of subdivision (e) of this section, within five years after return home following placement in foster care as a result of being found to be a neglected child, as defined in subdivision (f) of this section, provided that the respondent or respondents in each of the foregoing proceedings was the same; or where the court finds by clear and convincing evidence that the parent of a child in foster care has refused and has failed completely, over a period of at least six months from the date of removal, to engage in services necessary to eliminate the risk of abuse or neglect if returned to the parent, and has failed to secure services on his or her own or otherwise adequately prepare for the return home and, after being informed by the court that such an admission could eliminate the requirement that the local department of social services provide reunification services to the parent, the parent

has stated in court under oath that he or she intends to continue to refuse such necessary services and is unwilling to secure such services independently or otherwise prepare for the child's return home; provided, however, that if the court finds that adequate justification exists for the failure to engage in or secure such services, including but not limited to a lack of child care, a lack of transportation, and an inability to attend services that conflict with the parent's work schedule, such failure shall not constitute an aggravated circumstance; or where a court has determined a child five days old or younger was abandoned by a parent with an intent to wholly abandon such child and with the intent that the child be safe from physical injury and cared for in an appropriate manner.

(k) "Permanency hearing" means a hearing held in accordance with section one thousand eighty-nine of this act for the purpose of reviewing the foster care status of the child and the appropriateness of the permanency plan developed by the social services district or agency.

(l) "Parent" means a person who is recognized under the laws of the state of New York to be the child's legal parent.

(m) "Relative" means any person who is related to the child by blood, marriage or adoption and who is not a parent, putative parent or relative of a putative parent of the child.

(n) "Suitable person" means any person who plays or has played a significant positive role in the child's life or in the life of the child's family.