§ 371. Definitions

Unless the context or the subject matter manifestly requires a different interpretation, when used in this article or in any special act relating to children,

1. "Child" means a person actually or apparently under the age of eighteen years;

2. "Abandoned child" means a child under the age of eighteen years who is abandoned by both parents, or by the parent having its custody, or by any other person or persons lawfully charged with its care or custody, in accordance with the definition and other criteria set forth in subdivision five of section three hundred eighty-four-b;

3. "Destitute child" means:

(a) a child under the age of eighteen who is in a state of want or suffering due to lack of sufficient food, clothing, shelter, or medical or surgical care; and:

(i) does not fit within the definition of an "abused child" or a "neglected child" as such terms are defined in section one thousand twelve of the family court act; and

(ii) is without any parent or caretaker as such term is defined in section one thousand ninety-two of the family court act, available to sufficiently care for him or her, due to:

(A) the death of a parent or caretaker; or

(B) the incapacity or debilitation of a parent or caretaker, where such incapacity or debilitation would prevent such parent or caretaker from being able to knowingly and voluntarily enter into a written agreement to transfer the care and custody of said child pursuant to section three hundred fifty-eight-a or three hundred eighty-four-a of the social services law; or

(C) the inability of the local social services district to locate any parent or caretaker, after making reasonable efforts to do so; or

(D) the parent or caretaker being physically located outside of the state of New York and the local social services district is or has been unable to return said child to such parent or caretaker while or after

making reasonable efforts to do so, unless the lack of such efforts is or was appropriate under the circumstances;

(b) a child who is under the age of eighteen years and absent from his or her legal residence without the consent of his or her parent, legal guardian or custodian; or

(c) a child under the age of eighteen who is without a place of shelter where supervision and care are available who is not otherwise covered under paragraph (a) of this subdivision; or

(d) a person who is a former foster care youth under the age of twenty-one who was previously placed in the care and custody or custody and guardianship of the local commissioner of social services or other officer, board or department authorized to receive children as public charges, and who was discharged from foster care due to a failure to consent to continuation in placement, who has returned to foster care pursuant to section one thousand ninety-one of the family court act.

4-a. "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, education, medical or surgical care, though financially able to do so or 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 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 by his parents or other person legally responsible for his care.

4-b. "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) commits, or allows to be committed, an act of sexual abuse against such child as defined in the penal law.

5. "Juvenile delinquent" means a person as defined in section 301.2 of the family court act.

6. "Person in need of supervision" means a person as defined in section seven hundred twelve of the family court act.

7. "Dependent child" means a child who is in the custody of, or wholly or partly maintained by an authorized agency or an institution, society or other organization of charitable, eleemosynary, correctional, or reformatory character;

8. "Mentally disabled child" means a child who has a mental disability as defined in section 1.03 of the mental hygiene law;

9. "Physically handicapped child" means a child who, by reason of a physical disability or infirmity, whether congenital or acquired by accident, injury or disease, is or may be expected to be totally or partially incapacitated for education or for remunerative occupation, as

provided in the education law, or is or may be expected to be handicapped, as provided in the public health law;

10. "Authorized agency" means

(a) Any agency, association, corporation, institution, society or other organization which is incorporated or organized under the laws of this state with corporate power or empowered by law to care for, to place out or to board out children, which actually has its place of business or plant in this state and which is approved, visited, inspected and supervised by the office of children and family services or which shall submit and consent to the approval, visitation, inspection and supervision of such office as to any and all acts in relation to the welfare of children performed or to be performed under this title; provided, however, that on and after June first, two thousand seven, such term shall not include any for-profit corporation or other for-profit entity or organization for the purposes of the operation, management, supervision or ownership of agency boarding homes, group homes, homes including family boarding homes of family free homes, or institutions which are located within this state;

(b) Any court or any social services official of this state authorized by law to place out or to board out children or any Indian tribe that has entered into an agreement with the department pursuant to section thirty-nine of this chapter;

(c) Any agency, association, corporation, institution, society or other organization which is not incorporated or organized under the laws of this state, placing out a child for adoption whose admission to the United States as an eligible orphan with non-quota immigrant status pursuant to the federal immigration and nationality act is sought for the purpose of adoption in the State of New York or who has been brought into the United States with such status and for such purpose, provided, however, that such agency, association, corporation, institution, society or other organization is licensed or otherwise authorized by another state to place out children for adoption, that such agency, association, corporation, institution, society or other organization is approved by the department to place out such children with non-quota immigrant status for adoption in the State of New York, and provided further, that such agency, association, corporation, institution,

society or other organization complies with the regulations of the department pertaining to such placements. Notwithstanding any other provision of law to the contrary, such agency shall be limited in its functioning as an authorized agency to the placing out and adoption of such children. This paragraph shall not require the department to approve any such agency, association, corporation, institution, society or other organization which is located in a state which is a party to the interstate compact on the placement of children.

11. "Custody" means custody in pursuance of or in compliance with expressed provisions of law;

12. "Place out" means to arrange for the free care of a child in a family other than that of the child's parent, step-parent, grandparent, brother, sister, uncle, or aunt or legal guardian, for the purpose of adoption or for the purpose of providing care;

13. "Place" or "commit" includes replace and recommit;

14. "Board out" means to arrange for the care of a child in a family, other than that of the child's parent, step-parent or legal guardian, to whom payment is made or agreed to be made for care and maintenance.

15. "Home" includes a family boarding home or a family free home.

16. agency boarding home shall mean a family-type home for children and/or for minors operated by an authorized agency, in quarters or premises owned, leased or otherwise under the control of such agency, for the purpose of providing care and maintenance therein for children or minors under the care of such agency.

17. "Group home" shall mean a facility for the care and maintenance of not less than seven, nor more than twelve children, who are at least five years of age, operated by an authorized agency except that such minimum age shall not be applicable to siblings placed in the same facility nor to children whose mother is placed in the same facility.

18. "Public institution for children" shall mean an institution which is established and maintained by a public welfare district for the purpose of providing care and maintenance therein for children and minors for whose care such district is responsible and who require care away from their own homes.

19. "Foster parent" shall mean any person with whom a child, in the care, custody or guardianship of an authorized agency, is placed for temporary or long-term care, and "foster child" shall mean any person, in the care, custody or guardianship of an authorized agency, who is placed for temporary or long-term care.

20. "Therapeutic foster parent" means a foster parent who is certified or licensed pursuant to section three hundred seventy-five or section three hundred seventy-six of this article, or otherwise approved and who has successfully completed a training program developed by professionals experienced in treating children who exhibit high levels of disturbed behavior, emotional disturbance or physical or health needs. For any such child placed in their care, such parent shall assist in the implementation of the therapeutic treatment portion of the family service plan required by section four hundred nine-e of this article.

21. "Supervised independent living program" shall mean one or more of a type of agency boarding home operated and certified by an authorized agency in accordance with the regulations of the office of children and family services to provide a transitional experience for older youth who, based upon their circumstances, are appropriate for transition to the level of care and supervision provided in the program. Each supervised independent living unit shall be located in the community separate from any of the agency's other congregate dwellings.

* 22. "Supervised setting" shall mean a residential placement in the community approved and supervised by an authorized agency or the local social services district in accordance with the regulations of the office of children and family services to provide a transitional experience for older youth in which such youth may live independently. A supervised setting includes, but is not limited to, placement in a supervised independent living program, as defined in subdivision

twenty-one of this section.

* NB There are 2 sb 22's

* 22. "Kinship caregiver" means a relative or non-relative who is acting as a parent and who:

(a) is related to the child through blood, marriage or adoption;

(b) is related to a half-sibling of the child through blood, marriage or adoption; or

(c) is an adult with a positive prior relationship with the child, a half-sibling of the child or the child's parent, including, but not limited to, a step-parent, godparent, neighbor or family friend.

* NB There are 2 sb 22's