



Young Victims, Few Consequences: Children's Deaths Associated with Neglect

August 2005

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**Your statewide alliance ensuring the
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all children in North Carolina.**

Young Victims, Few Consequences: Children's Deaths Associated with Neglect in North Carolina

Introduction

The purpose of this report is to examine the problem of child neglect deaths in North Carolina, document the current responses of select agencies and professionals to the occurrence of child neglect deaths, and offer recommendations to enhance the application of justice when such deaths occur. To study the scope of fatal neglect in North Carolina, the North Carolina Child Advocacy Institute (NCCAI) examined the following questions:

- How are these cases investigated?;
- Do good examples of identification, investigation, and prosecution practices exist?; and,
- Do the cases meet a sufficient legal standard for a criminal justice response (i.e., have the responsible adults been held legally liable for their behavior)?

NCCAI's examination of the problem of children who die due to serious neglect includes three components: 1) North Carolina child fatality cases; 2) The multi-system and multi-disciplinary response; and, 3) State and national laws.

The death of a child is the most tragic outcome of child maltreatment. In addition to the actual killing of a child, deaths occur from failure to provide the basic necessities of life. Inadequate supervision may contribute to a child's injury or death through adverse events involving drowning, fires, motor vehicle crashes, or other injuries. These "acts of omission" define the type of child neglect discussed in this report. Children, especially young children, are those most vulnerable to dangers created by inadequate or inappropriate supervision, the failure to provide a safe environment, and/or the impairment of a parent or caregiver. Less commonly, children may die from medical neglect which can include not receiving medical attention for injuries and/or failure to ensure compliance with necessary medical treatments, such as providing insulin for a diabetic child.

Since neglect deaths may be reported as unfortunate accidents, they may receive less publicity, less notice, and less reaction from the public and child advocates than do children who are violently killed by their caregivers. Fortunately, for North Carolina, there are many concrete steps that can be taken to ensure that such "accidents" are avoided or at least receive much needed attention. (See Recommendations for further discussion.)

North Carolina Child Fatality Prevention and Review System

Throughout this report references are made to the North Carolina Child Fatality Prevention System. The North Carolina Child Fatality Prevention System is a statewide multidisciplinary, multi-agency child fatality prevention system consisting of the State Team established in G.S. 7B-1404 and the Local Teams established in G.S. 7B-1406. The purposes of the North Carolina Child Fatality Prevention System include: developing a community approach to the prevention of child abuse and neglect, understanding and reporting the causes of child deaths, identifying gaps in services to children and families, and making and carrying out recommendations for changes to laws, rules, and policies to prevent future child deaths.

The five components of the Fatality Prevention System are as follows:

- (1) North Carolina Child Fatality Task Force (Task Force). As the public policy arm of the state Child Fatality Prevention System, the Task Force was created to prevent deaths of children in North Carolina;

- (2) The North Carolina Child Fatality Prevention Team (State Team). The State Team is a multi-disciplinary group charged with reviewing all documented deaths by the Medical Examiner of children 0–17 years of age, including those due to child abuse and neglect, as well as those which have been previously reported to Child Protective Services (CPS);
- (3) Community Child Protection Teams (CCPTs). Community Child Protection Teams are an interdisciplinary group of county representatives who come together in each county to promote a community-wide approach to the problem of child abuse and neglect;
- (4) Local Child Fatality Prevention Teams (CFPTs). Local Child Fatality Prevention Teams review deaths of county residents under age 18 not included in CCPT reviews; and,
- (5) North Carolina Division of Social Services Child Fatality Review Team. Assisted by the state Department of Social Services, local departments of social services must review any child fatality where there was suspicion of abuse or neglect involved in the death and where the child had a record with Child Protective Services (CPS) within the past twelve months.
(See N.C.G.S. § Article 14, Chapter 7B-1400-1414)

Overview of the Problem

Neglect is the least studied and most poorly described form of child maltreatment. This is due to many factors including the difficulty in defining and documenting neglect of children, nationally and within North Carolina. Nationally, in 2002, of the estimated 896,000 children determined to be victims of child abuse and/or neglect, more than 60 percent experienced neglect (including medical neglect).¹ For the same year in North Carolina, there were over 35,000 victims of substantiated child abuse and/or neglect with more than 90 percent designated victims of neglect.¹ North Carolina percentages are particularly high because there is no clear definition of neglect. When children have clearly been hurt, but may not meet the “serious” physical injury standard of “abuse,” the case may be documented as neglect. (See Recommendation #4 for further discussion.)

Despite this definitional dilemma, child neglect can be deadly serious. The North Carolina Child Fatality Task Force (Task Force) reported that, of the 276 children who died from unintentional (accidental) injuries in 1999, “More than 30 children died from causes under circumstances that were reasonably preventable by age appropriate care, supervision, and safety standards.” The Task Force labels/categorizes these deaths as due to acts of omission—“omission on a caregiver’s part to provide a safe environment or care adequate to sustain reasonable growth and development of the child.”²

The North Carolina Child Fatality Prevention Team (State Team) reviewed child deaths due to “acts of omission” from 1992 through 1996. Each year, 200 to 300 children died from “unintentional injuries” (i.e., drowning, house-fires, asphyxiations, firearms, and motor vehicle crashes), some of which may have been due to actions or the lack of actions that could be considered serious neglect.³ The true number would undoubtedly be higher were consistent fatality reviews for neglect conducted using a standardized definition.⁴

Variations in estimates of neglect fatalities and the lack of criminal consequences can be attributed to system-wide challenges and obstacles, including reporting and coding systems that fail to capture the contribution of neglect to the cause of death; lack of statewide standardized protocols/procedures for a multi-agency system response; and ambiguous statutes that provide an insufficient foundation for a coordinated, consistent response.

These tragic deaths in North Carolina are an unacceptable problem and require a commitment to actions and sanctions that will save lives.

NCCAI's Definition of Neglect for this Study

Defining child neglect can be both challenging and complex. Child neglect includes a range of behaviors that characterize an omission of care or protection rather than violent actions, and “many definitions tend to incorporate statutory, clinical, and research perspectives.”⁵ Thus, there is no single agreed-upon definition of child neglect in any of the disciplines commonly involved with these cases (i.e., child protective services, medicine, public health, and law enforcement). Each state defines “neglect” differently. (See Appendix 1) Here in North Carolina, Prevent Child Abuse North Carolina describes “neglect” as, “any serious disregard for a juvenile’s supervision, care, or discipline.”⁶ The North Carolina Department of Social Services, Child Protective Services Units adhere to the legal definition of neglect under the child abuse statutes. Thus, “neglect” from a child protective services point of view is generally that of providing (or failing to provide) “minimal” or “adequate” rather than optimal care. While child abuse is usually seen as one of the most extreme acts of child maltreatment; child neglect is just as serious and can result from both acts and a failure to act. Neglect of children occurs not only within families, but may occur in the community and society at-large. This report concerns neglect at the family-level.

The North Carolina Child Fatality Prevention Team (State Team) explains in their fourth annual report, that, “labeling a death as due to *neglect* carries with it a connotation of blame to the caregiver” and even intentionality.⁷ Consequently, the State Team refers to these deaths as “fatalities due to acts of omission.” Nonetheless, examining the issue of criminal consequences (or lack thereof) for parents or other caregivers when fatal neglect has occurred, involves a judgment regarding the caregivers’ failure to protect the child. In such instances, judgment is required regarding whether a situation is an “unfortunate accident” or whether criminal sanctions should come into play.

The Intersect Between Child Neglect and Endangerment

Additionally, there is overlap of the definition of “neglect” and “child endangerment.” An examination of state child neglect and endangerment laws and definitions revealed that the difference is sometimes unclear. Endangerment statutes tend to have more of a criminal approach to sanctions while neglect statutes generally focus on social service responses. “Child neglect” is primarily viewed as *a failure to act*, while child endangerment can either be *an act or a failure to act*. “*Child endangerment*” may be defined as *recklessly or with criminal negligence subjecting a child to a substantial risk of harm by either overt actions or lack of action by violating a duty of care, protection, or support*.⁸ Though this report’s focus is on fatal neglect, an understanding of child endangerment and the intersection between that of neglect is unavoidably necessary.

It is important to note that in both fatal abuse or neglect (or endangerment); parents and other caregivers seldom *intend* to kill the child, by an act or a failure to act. Child endangerment clarifies the scope of adult culpability, even in the absence of express intent.⁹

Because of this variation and for purposes of identifying cases for the report, NCCAI has developed an operational definition of a child neglect death. It reads, *a parent, guardian or caregiver that intentionally, knowingly, or recklessly, by act or omission, engages in conduct that causes the death of a child under 18 years of age*.

Due to the resounding difficulty in identifying and reviewing neglect deaths (i.e., taking into account the element of intentionality), through literature reviews, NCCAI has adopted a universal definition that may be used by the disciplines commonly involved in neglect fatality cases. Adapted from Straus and Kantor, it reads, *a death resulting from behavior by the responsible caregiver that constitutes a failure to act in ways that are presumed by the culture of our society to be necessary to ensure the safety and physical well-being of a child*.¹⁰

Apparent Lack of Legal Consequences

In 2002 alone, there were 285 total deaths of children birth through 17 years of age due to drowning, fires, motor vehicle crashes, firearms, asphyxiation, and other unintentional injuries, classified as accidents.¹¹ Of these, a certain number of the deaths may be a consequence of serious neglect—neglect that was likely to have been directly responsible for the child’s death. It is these incidences of serious neglect and the related criminal justice outcomes (or lack thereof) that serve as the focus of this report.

NCCAI suspected from previous review of 2002 child accidental deaths, some of which would be considered neglect, that such deaths are not handled or resolved consistently (i.e., this type of maltreatment rarely results in criminal prosecutions, or active sentences).¹²

For example:

Wake County: No Charge, But Facility Closed

A 2-year-old girl died from environmental hyperthermia after being left unattended in a van in September of 2002.¹³ The day-care volunteer/driver forgot to remove the child from the van. Criminal charges were not filed against the driver. The day-care program was terminated based upon a substantiation of child neglect and violations of child care requirements regarding the supervision of children, transportation, records and staff qualifications.¹⁴

Alamance County: No Charge

A 2-year-old boy died in 2002 from severe head trauma. While left outside unsupervised, he was hit by a fuel oil truck delivering fuel to his home. No criminal charges were filed.¹³

Catawba County: No Charge

A 10-week-old boy died in 2002 from carbon monoxide poisoning and severe thermal injuries while in a car, according to the Medical Examiner. He and his older sibling (3-years-old) had been left unattended while their mother went into an elementary school to pick up another child. There were conflicting views on the origin of a fire that resulted in an explosion (3-year-old sibling igniting a plastic bag or an electrical malfunction). No criminal charges were filed.¹⁵

Randolph County: Criminal Charge, But No Conviction

A 2-month-old girl died in 2002 from suffocation due to positional asphyxiation (overlying).¹³ The mother said she laid the infant in bed with her husband, who was allegedly passed-out from drug ingestion, while she went out to allegedly purchase drugs. The mother was charged with involuntary manslaughter, but the conviction was dismissed due to lack of probable cause.¹⁶

Data Regarding Child Maltreatment

The lack of a coordinated statewide child maltreatment data system, including a common definition for identifying these deaths, results in the lack of accurate data on fatalities from neglect in North Carolina. The North Carolina Division of Social Services, the courts and the North Carolina Child Fatality Task Force each produce independent reports that provide limited information on child abuse and some, but not all, deaths one would consider to be related to neglect. Seldom do any of these reports address the outcomes of such abuse and neglect deaths. When assigning causes of death, there are no codes in the data collected that capture deaths where “neglect” was a contributor to the cause of death. For example, the death of a toddler left unsupervised in a bathtub who drowns is currently coded as drowning as a result of an accident. The North Carolina State Child Fatality Prevention Team (State Team) does not use a neglect definition from which the Team can analyze fatalities according to the neglect status and report numbers and types of neglect deaths on a regular basis. The State Team continues to track deaths labeled “acts of omission” due to the unavoidable difficulty in identifying and defining child neglect deaths.

The NCCAI Study: Methodology

This paper is an initial examination of law enforcement responses and prosecutions, and recommendations for the legal response of a select number of cases of serious child neglect resulting in fatalities in North Carolina in 2002. Specifically, this study examines the current status of legal responses to fatal neglect.

North Carolina Cases

As classified by the Office of the Chief Medical Examiner (OCME) during 2002, there were 285 confirmed accidental child deaths. Of these, 20 were selected based on NCCAI's operational definition of a child neglect death, mentioned earlier. NCCAI performed a detailed review and analysis of autopsy findings, circumstances related to the death, and the manner in which the death occurred. The State Child Fatality Review Team of the Division of Social Services (DSS) had also previously reviewed six of the twenty cases. Seven of the twenty cases were selected from the 185 accidental deaths involving motor vehicles based on NCCAI's operational definition. NCCAI selected a sample of every fifth case from the 185 accidental deaths involving motor vehicles. Of those thirty-five accidental deaths, seven met NCCAI's operational definition of a neglect fatality. Seven additional cases selected by NCCAI were identified from the 285 total child accidental deaths in 2002. These seven cases met NCCAI's operational definition of fatal neglect and were also chosen based on NCCAI's prior review of 2002 child accidental deaths. Details of these cases can be found in Appendix 2. Due to the study limitations and parameters (i.e., difficulty contacting law enforcement officers, the ability to access criminal justice outcomes), NCCAI was limited to the examination of this small sample of cases.

Multi-Agency System Response

NCCAI studied the Child Protective Services system to determine when and what circumstances require individuals and agencies to report suspected cases of child neglect to their local Divisions of Social Service and when reporting requires the involvement of law enforcement of suspected cases of child neglect. To research the legal response, NCCAI chose cases from the year 2002 to ensure that there was adequate time for criminal justice outcomes to have been settled. The intent was to identify the characteristics and diversity of responses among relevant agencies and professions (i.e., social services, law enforcement, and criminal justice) within North Carolina to neglect deaths. This study focused on a select group of involved agencies to examine the consistency (or lack thereof) in statewide protocols and procedures for responding to sudden, unexpected child fatalities. A more detailed analysis of these issues is addressed in *Findings: Does a multi-system response exist?* and in NCCAI's 2002 publication *Not Invisible, Not In Vain, Child Maltreatment Fatalities: Guidelines for Response*.¹⁷ NCCAI interviewed law enforcement personnel and obtained criminal justice outcomes from the Administrative Office of the Courts (AOC), both of which led to a better understanding of the current criminal justice aspects related to neglect fatalities. Of the 20 cases identified, it was only possible to interview fifteen law enforcement personnel. There were fourteen total case studies, of which 15 interviews were conducted. For one of the 20 identified cases, NCCAI was able to interview two officers/detectives.

Time was a major constraint on the number of officers that could be interviewed. Each case, regardless of the source, required 10–12 phone calls to various police departments, sheriff's departments, and state troopers. Tracking down the officer that had worked the case or had access to the files was a lengthy, involved process. Many officers had retired or transferred to another unit, division and/or department. Several departmental databases had been lost or upgraded due to technical malfunctions or technological advances. Other departments could not search records by victim name. In one case, a police department unable to locate information regarding criminal charges referred interviewers to the Department of Motor Vehicles for further information.

Statutes

Child Neglect

NCCAI conducted a search of child neglect laws and child endangerment laws across the United States. There are 50 states that have specific child neglect statutes and 44 states that have child endangerment statutes.¹⁸ While all 50 states have a neglect statute, only 40 explicitly use the term “neglect” in the statute. (See Findings for a discussion of North Carolina statutes.) Alabama is an example of one of the 10 states that failed to mention neglect in its neglect statutes. This can be attributed to states’ variation in the criteria and circumstance that define an incident and what is considered neglect, endangerment and/or abuse. Alabama’s criminal neglect and abandonment statute reads:

“... a man or woman commits the crime of endangering the welfare of a child when he or she knowingly directs or authorizes a child less than 16 years of age to engage in an occupation involving a substantial risk of danger to his life or health; Endangering the welfare of a child is a Class A misdemeanor.” Ala. Code § 13A-13-6 (2004)

Child Endangerment

The American Prosecutors’ Research Institute (APRI) devised two separate categories of child maltreatment statutes that relate to neglect and endangerment: 1) criminal neglect and abandonment, and, 2) child endangerment as a separate set of statutes. For example, North Carolina is considered to have a child endangerment statute under APRI’s classification, but in all actuality, North Carolina is one of the few states without an endangerment statute. APRI’s classification of neglect and endangerment statutes is based upon criminal sanctions but makes no distinction in clarifying which statutes are truly criminal and which are civil. Instead, all neglect and endangerment statutes are classified as criminal.¹⁹ This includes North Carolina’s civil child neglect statute which is based more on a social service response rather than a criminal one. APRI’s lack of distinction between endangerment and neglect statutes has resulted in some statutes included as endangerment statutes that were also counted as neglect statutes because there were very few (if any) distinctions made among neglect, abandonment, and endangerment, and in some instances, abuse and dependency. (See Appendix 3)

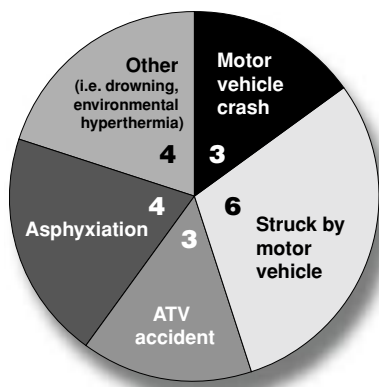
Findings

North Carolina Cases

Data Regarding Victims

Figure 1
Child Deaths by Cause
(N=20)

N is the total number of NCCAI study cases.



All of the victims examined were under 17 years of age, with seven of the children one-year or less. Blunt force trauma was the cause of death for twelve of the twenty children. Of the 20 selected cases, three children were killed while in a moving motor vehicle (either as an underage operator or passenger). (See Figure 1) Six children were struck and killed by motor vehicles while they were walking or as they ran out into traffic or while attempting to cross a street; three children were killed while riding all terrain-type vehicles (ATVs); four died as a result of asphyxiation; and four children died of other accidents. These included drowning (two), carbon monoxide poisoning (one), and environmental hyperthermia (one). Case reviews revealed limited information on the use of restraints (safety belt, child safety seat, or helmet) or the involvement of alcohol/drugs in a few of the incidents. Of the three children who were killed while riding an all-terrain vehicle, two were not wearing a safety helmet (information was unavailable on the use of a helmet in the other case). Two children were killed in motor vehicle crashes involving reckless driving (e.g., failure to yield, failure to stop at a stop sign). (See Appendix 2)

Data Regarding Perpetrators and Criminal Justice Outcomes

There are no data systems in North Carolina that:

- (1) Identify fatality cases in which child neglect or endangerment is an issue;
- (2) Provide criminal justice data on deaths (or injuries) in which neglect or endangerment was a factor (including cases where a decision was made not to charge the perpetrator); or,
- (3) Classify neglect cases by category (i.e., injurious, fatal).

In the majority of fatalities due to neglect in North Carolina identified in this report, the caregiver was simply not present at a critical moment. In the 20 selected child fatality cases, two perpetrators were criminally charged resulting in one conviction. One perpetrator was charged with involuntary manslaughter, though the judge cited a lack of probable cause and the case was dismissed. The conviction comprised a 30-day suspended sentence with one year of unsupervised probation for failure to stop at a stop sign/flashing red light. (See Appendix 2) One officer mentioned that after law enforcement received the Medical Examiner's accidental death ruling that their agency decided not to continue any further investigation.²⁰ However, when there were suspicious circumstances surrounding the case, officers reported they consulted with the District Attorney's (DA's) to ascertain the facts of the case. In other instances, the prosecutor/district attorney cited the lack of criminal neglect or the judge cited lack of probable cause. Two out of 15 officers/detectives mentioned that he/she pursued a case with their District Attorney (DA) but was told the case would not go to trial because it could not be won. An officer relayed that one DA felt that it would be "rubbing salt in the wound to prosecute the family." (See Appendix 4)

Does a Multi-Agency System Response Exist?

What occurs when a child dies in North Carolina? In most cases, emergency medical care providers are dispatched. In some counties, law enforcement is not automatically dispatched for an Emergency Medical Services (EMS) call since some counties do not have dual dispatch of law enforcement and EMS.²¹ Thus, law enforcement may or may not be **immediately** present in response to a child's death.

Through interviews with law enforcement personnel, this study found that the Division of Social Services (DSS) may become involved if an individual or an involved agency (EMS, law enforcement, hospital, medical examiner) suspected abuse or neglect and may, subsequently, make a report.²² (See Figure 2) In each county in North Carolina, the Department of Social Services CPS Unit is charged with investigating the circumstances of a child death and the whereabouts and safety of other children in the home. Findings revealed that the law enforcement response depended on each individual's understanding of statutory, policy and procedural requirements for reporting.

The review and investigation of a sudden, unexpected child fatality requires (but does not currently automatically receive) a multi-agency system response. After the death of a child in North Carolina, there may be many agencies trying to determine why a child died, if there is a responsible party, and what can be done to prevent future occurrences.

A multi-agency, coordinated response could include:

- Shared data systems (DSS, law enforcement, courts);
- Enhanced communication among entities as "first responders" (emergency medical services, medical providers, emergency room personnel, Medical Examiners);
- Involvement of Child Protective Services;
- Automatic and immediate law enforcement response;
- Review of the fatality at several possible levels within the state fatality review system;
- Appropriate community involvement; and,
- Appropriate criminal prosecution of the responsible parent or caregiver.

(A more detailed analysis of these issues is addressed in *Not Invisible, Not In Vain, Child Maltreatment Fatalities: Guidelines for Response, 2002.*)

The Child Protective Services System: Civil Child Neglect

By statutory requirements, cases investigated for neglect by the counties' Child Protective Services units are not reported to law enforcement. (N.C.G.S. § 7B-307) DSS is not required by statute/law or policy/procedure to report evidence of neglect to their local law enforcement agency. However, DSS is statutorily required to report evidence of abuse to law enforcement to determine if any criminal sanctions are warranted. Statute 7B-307 reads: *If the director (DSS) finds evidence that a juvenile may have been abused as defined by G.S. 7B-101, the director shall make an immediate oral and subsequent written report of the findings to the district attorney or the district attorney's designee and the appropriate law enforcement agency within 48 hours after the receipt of the report.*

The Child Protective Services System adheres to a body of law and procedures, known as the North Carolina Juvenile Code (1999) when investigating reported cases of suspected child abuse, neglect, dependency and death due to maltreatment. When there is a report of a child's death due to maltreatment, the focus of a county Department of Social Services is to determine whether there are other children in the home and, if so, a decision must be made whether these children are in need of protective services. The laws in the Code establish civil, as opposed to criminal procedures, for responding to children who are abused, neglected, or dependent. (G.S. 7B)

Protect and Serve: Law Enforcement Reporting to County DSS Offices

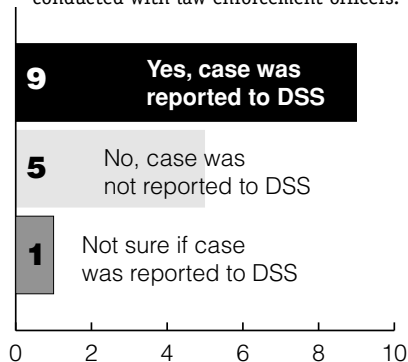
No previous data have been collected regarding cases in which law enforcement was involved to ascertain whether the cases were reported to DSS for suspected neglect. Consequently, this section of the report describes findings gathered from interviews with law enforcement officers. When there is a report to DSS of a child fatality, a more coordinated response within and between all relevant agencies is required. North Carolina statutes do not provide an adequate foundation for a common legal response, thus law enforcement officers frequently use their own judgment and discretion in the majority of these cases. By North Carolina law,

any person or institution who has cause to suspect that any juvenile is abused, neglected, dependent, as defined by G.S. 7B-101, or has died as the result of maltreatment, must report the case of that juvenile to the director of the department of social services in the county where the juvenile resides or is found. (G.S. 7B-301 "the child abuse reporting law")

Figure 2

Law Enforcement Reports (N=15)

N is the total number of interviews conducted with law enforcement officers.



Before an individual is required to report a suspected case to the County DSS, there must first be a suspicion of child abuse, neglect or dependency. From the NCCAI review of the selected cases, it was apparent that the various law enforcement agencies (i.e., police, sheriff, highway patrol) lacked a shared understanding of reporting requirements to their local Departments of Social Services. Knowledge of agency policies/procedures for reporting suspected cases of neglect varied. In a majority of the selected cases, law enforcement cited close communication with DSS when there was a child fatality. In nine of the cases, law enforcement cited reports to or contact with DSS (including information on prior child protective services (CPS) histories). (See Figure 2)

Three out of nine officers (i.e., city police, sheriff's deputies) did not report the death to DSS, while three out of five state highway patrol troopers did not report the death to DSS, one officer was unsure if the case had been reported to DSS. (See Appendix 4.) Officers were further questioned to determine reasons for not contacting DSS to report possible neglect and/or endangerment. Officers were asked to cite examples of incidences in which they would seek DSS intervention and other instances for which they would not. The most

common example given where a report would not be made was a parent driving under the influence of drugs and/or alcohol with children in the vehicle. The parent would most often be arrested, but officers would frequently contact the closest family member to remove the children from the scene instead of and without simultaneous reporting to DSS.

From the limited number of interviews conducted with law enforcement, it appeared that some officers lacked an understanding of what circumstances warranted a report of suspected neglect to DSS. This type

of determination requires an understanding of the Juvenile Code, which defines these and other terms. Thus, the Juvenile Code applies more to a civil determination of duties; it does not specify when conduct affecting a child should be treated as a crime. For this, those who report suspicions of abuse and neglect must refer to criminal statutes.

The role of law enforcement is to investigate cases and determine whether or not criminal conduct has occurred. The magistrate determines whether enough probable cause exists to justify an arrest. Interviews with law enforcement officials in 14 of the cases revealed a variety of responses as to whether criminal charges were filed where there was reason to believe child neglect or endangerment existed. All fifteen officers/detectives that were interviewed reported that there was immediate notification to their agency of the child deaths and all 15 reported that extensive investigations were conducted. When asked if he/she felt child neglect and/or endangerment was involved in the child's death, four officers/detectives answered yes (interestingly, for the single case where two officers were interviewed they did not agree), four answered he/she was unsure, six answered no, and one did not answer the question. (See Appendix 4 for a detailed list of interview questions.)

Several factors seemed to play a major role in decisions as to whether criminal negligence existed in the cases assigned, including: the medical examiner's ruling, law enforcement experiences with similar cases, likelihood of a conviction, and foundation for a legal response in the criminal statutes. For example, for the single case where two officers were interviewed, one officer felt that young children and especially, infants should not be left alone in a car, while the other officer felt that prior action had not been taken against others mothers who left their children alone in a car. When asked if they (law enforcement officers) thought a child endangerment law would be helpful in these types of cases, responses ranged from a child endangerment law is needed in North Carolina to current laws are sufficient in these types of cases.

Prosecution: There is Wide Variability in Decisions to Charge or Not Charge

Every year, neglect resulting in a child's death occurs in North Carolina, although this type of maltreatment rarely results in criminal prosecutions or active sentences. This report demonstrates that North Carolina statutes provide an insufficient foundation for handling these types of cases consistently (i.e., there are few, if any, criminal consequences for the adults involved).

It is the duty of the prosecutor to make a determination whether to file criminal charges, what charges to file or if there may be a plea negotiation. Prosecutors have wide discretion in their decision of whether to charge a defendant, and if so, what to charge. In March 2002, the North Carolina Sentencing and Policy Advisory Commission (Sentencing Commission) published *Sentencing Practices Under North Carolina's Structured Sentencing Laws* with the goal of evaluating North Carolina's sentencing practices and their impact on the criminal justice system. Through their research the Sentencing Commission identified numerous factors that prosecutors take into account when prioritizing cases.

These may include:

- the age of the case;
- circumstances of the case;
- chances of obtaining a conviction;
- what defenses are available to the defendant;
- recent changes in the law that may help or hurt the case;
- reputation and trial skills of the defense attorney;
- how a jury may perceive the defendant, the facts, and legal theories;
- who the judge is; and,
- length of sentence the defendant is likely to receive.²³

The Sentencing Commission also found that the majority of felony charges are initiated by law enforcement officers, but, because the prosecutor is responsible for determining what charges go into a bill of indictment, prosecutors have considerable control over the entire process.²⁴

Of the 20 study cases, the Administrative Office of the Courts database reported only one of these cases as a conviction. One perpetrator was charged with involuntary manslaughter, though the judge cited a lack of probable cause and the case was dismissed. The conviction comprised a 30-day suspended sentence with one year of unsupervised probation for failure to stop at a stop sign/flashing red light. More details for the 2002 cases can be found in Appendix 2.

NCCAI Comment

There are important factors that come into play in child maltreatment fatality cases. The perception of society that an adult charged with the care and protection of his/her own or another's children would not place that child in harm's way is one of the main obstacles faced by prosecutors/district attorneys. Since many child neglect fatalities present as unfortunate accidents, decisions to pursue criminal charges lead to a struggle between empathy and accountability for those involved. (See Appendix 4 for the criminal justice response.) As noted earlier, child neglect sometimes displays itself as obvious injury (i.e., malnourishment, medical neglect) and in other instances, as a failure to adhere to parental duties (i.e., drowning due to lack of adequate supervision). Upon initial examination, neglect fatalities may look like unfortunate accidents, but further investigation reveals some form of maltreatment. North Carolina criminal statutes may be insufficient in providing a clear understanding of what criteria warrant an appropriate criminal justice response to child neglect fatalities.

Statutes

North Carolina Criminal and Civil Statutes Involving Child Neglect

Any possible criminal consequences for perpetrators of child neglect will necessarily result from the statutes defining the offense and penalties. Examination of North Carolina's statutes revealed only two related specifically to child neglect: one civil and one criminal.

Civil:

North Carolina General Statute §7B-101 (Juvenile Code)

A juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law. In determining whether a juvenile is a neglected juvenile, consideration must be given to whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile had been subjected to abuse or neglect by an adult who regularly lives in the home.

Punishment: none since this is a civil statute

Criminal:

North Carolina General Statute §14-316.1. Contributing to delinquency and neglect by parents and others.

A person is guilty of this offense

- (1) is at least 16 years old and
- (2) knowingly or willfully
- (3) causes or encourages or aids
- (4) any juvenile within the jurisdiction of the court
- (5) (a) to be in a place or condition or
(b) to commit an act whereby the juvenile could be adjudicated:

- (i) delinquent or
- (ii) undisciplined or
- (iii) abused or
- (iv) neglected

as defined in 7B-101 and G.S. 7B-1501.

Punishment: Class 1 misdemeanor

The civil statute comprises the CPS system definition of neglect. G.S. 7B-101 states that a neglected juvenile is one who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law.

G.S. 7B-101 also states that an abused juvenile is one whose parent, or caretaker "a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means; b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means." The term serious physical injury is narrow and makes it extremely difficult to substantiate cases as physical abuse.

It is important that the inevitable link between child neglect and abuse is addressed. For instance, children with certain types of limited bruises and physical injuries are being substantiated as neglect, thus the North Carolina statutes governing such cases may be insufficient for a coordinated, system response to child maltreatment. (See Recommendation #4 for further discussion.)

NCCAI analysis of state statutes revealed wide variability in the content of these statutes, ranging from a focus on a parent's failure to provide the basic necessities of life, to endangering a child to a substantial risk of serious harm to specific inclusions of physical and sexual abuse within the statute. (See Appendix 3)

Based upon analyses of state definitions and statutes of fatal child neglect, NCCAI has identified several additional North Carolina statutes that may be used for prosecution of persons whose neglect led to the death of a child. These statutes include:

- Misdemeanor Child Abuse (states that injury must be "other than by accidental" means) [(G.S.) 14-318.2]
- Felony Child Abuse (refers to "intentional" infliction of a serious injury) [(G.S.) 14-318.4; (G.S.) 14-318.4 (a3)]
- Involuntary Manslaughter, [(G.S.) §14-18]
- Murder in the second degree if the neglect was particularly severe, [(G.S.) §14-17]
- Child Restraints Systems Law, [(G.S.) 20-137.1]
- Impaired driving with a child under 16 years of age [(G.S.) 20-179 (c) (4)]
- Permitting young children to possess or use dangerous fire arms [(G.S.) 14-316]
- Exposing children to danger by fire [(G.S.) 14-318]

These statutes, while not specifically addressing child neglect or endangerment, may be useful in cases in which a death has occurred and neglect or endangerment is a factor. Child endangerment statutes explicitly define the culpability of the adults involved in the death of a child due to serious neglect.

Child Endangerment Statutes²⁵

Forty-four states (not including North Carolina) have specific child endangerment laws. Statutes related to child endangerment are often broader in definition than neglect statutes and may include any person who is responsible for the safety and welfare of a child, regardless of the relationship to the child.

A child endangerment statute is defined as a law creating a criminal offense, either misdemeanor or felony, which sets a standard of criminal negligence or endangerment and criminal liability for conduct or omission of conduct towards a child that, creates a substantial risk of harm to the child or actually causes harm. The statutory definition of criminal negligence or endangerment toward a child specifies or implies a legal duty has been breached by a person who has custody and control over the child placed at risk of harm. By criminalizing omissions, these statutes have the effect of creating affirmative duties for parents and others to protect their children from acts of abuse and neglect, as well as from risks of harm.

Most states specifically include omission or failure of a duty to protect children among the lists of prohibited behaviors. States use “omission statutes” to punish not only the perpetrators of abuse, but also any person who fails to fulfill his or her duty to protect a child from abuse or neglect as defined in the civil statutes. Under most statutes, those subject to punishment for omission are limited to parents, guardians or other persons having care, custody or control of a child.

Based upon NCCAI’s analysis, North Carolina does not have a criminal child endangerment law for persons other than parents, caretakers, custodians, and legal guardians. As noted earlier, neglect laws in North Carolina are based upon statutory definitions that limit the relationship narrowly to parents, guardians, and other legally-defined caretakers.

NCCAI Recommendations

Society may view child neglect deaths as tragic accidents and assume that the adults involved have suffered enough through the loss of a child. Sympathizing and empathizing with grieving parents comes naturally. However, society must recognize that most of such deaths are senseless and preventable. Prevention is the key to reducing the number of children who die each year due to serious neglect. A proactive approach must be taken to prevent the future death of our children due to neglect. Prevent Child Abuse North Carolina recently released a set of guidelines to encourage parents and caregivers to take extra measures to ensure proper supervision is available to children during the summer and throughout the year.²⁶

Recommendation #1: Public Awareness Campaign

A comprehensive public awareness campaign should be considered for developing enhanced parenting skills courses for the at-risk population (i.e., young parents, first-time parents, single parents, substance abusers).

This enhanced training should include a strict focus on the following:

- (1) what constitutes age appropriate and adequate supervision;
- (2) proper use of child restraints, car seats, helmets;
- (3) fire safety;
- (4) water/swim safety;
- (5) firearms safety;
- (6) hot weather safety;
- (7) pet safety (familial and strange dogs);
- (8) recreational vehicle safety (i.e., all-terrain vehicles safety); and,
- (9) safe bedding and age appropriate sleeping arrangements

This campaign should be a multi-agency, multi-disciplinary effort (i.e., medical, legal, child advocacy, social services, schools, and the faith community).

Recommendation #2: Universal Definition of Child Neglect Fatalities

A single-agreed upon definition of child neglect in any of the disciplines commonly involved with these cases (i.e., child protective services, medicine, public health, and law enforcement) should be developed by the North Carolina Child Fatality Task Force as part of collaboration with the North Carolina Child Fatality Prevention System. The North Carolina Child Fatality Prevention Team (State Team) does not currently use a neglect definition from which the Team can analyze fatalities according to the neglect status and report numbers and types of neglect deaths on a regular basis. The development of a standardized definition would allow the State Team to conduct consistent fatality reviews for neglect. As a result of the lack of an agreed-upon definition and underreporting, there is no reliable source to determine the circumstances or the number of children who die from neglect. The one point where researchers and practitioners tend to agree is that child fatalities due to neglect are underreported.

Recommendation #3: Statewide Child Maltreatment Data System

A coordinated, statewide child maltreatment data system should be developed in collaboration with all agencies involved in the identification, prosecution, and sentencing of cases of serious neglect. Currently, County Departments of Social Services do not collect data on how many cases in which a child is killed or injured are the results of serious neglect. Neither do they collect data on how many investigated children have injuries or other physical harm from either acts of commission or acts of omission. DSS, the Courts and the North Carolina Child Fatality Task Force produce independent reports that provide limited information on child abuse and some, but not all, of the deaths one would consider to be related to neglect. At a minimum, data should be collected on cases in which a child is killed or injured as a result of serious neglect. Additionally data should be collected on children being investigated by DSS for the presence of injuries or other physical harm from either acts of commission or acts of omission.

Recommendation #4: Immediate Notification and Reporting to Law Enforcement

A multi-disciplinary commitment to develop guidelines for expanded reporting of child maltreatment cases to law enforcement should be considered. Neglect can be just as harmful to a child as physical abuse. Even though North Carolina has the highest percentages of child neglect substantiations in the country (90.3%), these cases are rarely, if ever, reported to law enforcement. North Carolina's proportion of cases substantiated as physical abuse (3.5%) is the lowest in the country; the national average is 18.6%.²⁷ In other states, children with the same injuries, marks and bruises may be substantiated as abused and would have the benefit of law enforcement involvement and court review of the case. (See Appendix 1 for state definitions of child maltreatment)

Law enforcement must be involved in each child death in order to ensure a thorough investigation is conducted. As such, it is also just as important to involve the prosecutor/district attorney upon a child's death if he/she is going to be able to coordinate the facts of the case to determine the appropriate criminal charges, if any. The formation and work of the state child fatality prevention system is one step toward addressing the problem of children who die due to serious neglect, although, a much more coordinated, consistent response is needed to ensure equitable criminal justice outcomes and justice for the young victims.

Recommendation #5: Improvements to North Carolina's Criminal Statutes

Criminal statutes should be re-examined and may need to be improved or supplemented. Specifically, a child endangerment law should be considered. The statutory definition of criminal negligence or endangerment toward a child specifies or implies a legal duty has been breached by a person who has custody and control over the child placed at risk of harm. By criminalizing omissions, these statutes have the effect of creating affirmative duties for parents and others to protect their children from acts of abuse and neglect, as well as from risks of harm. An example: Illinois Felony Child Abuse Statute reads:

**Illinois felony child abuse statute (720 ILCS 5/12-21.6)
Sec. 12-21.6. Endangering the life or health of a child.**

(a) It is unlawful for any person to willfully cause or permit the life or health of a child under the age of 18 to be endangered or to willfully cause or permit a child to be placed in circumstances that endanger the child's life or health, except that it is not unlawful for a person to relinquish a child in accordance with the Abandoned Newborn Infant Protection Act.

(b) There is a rebuttable presumption that a person committed the offense if he or she left a child 6 years of age or younger unattended in a motor vehicle for more than 10 minutes.

(c) "Unattended" means either: (i) not accompanied by a person 14 years of age or older; or (ii) if accompanied by a person 14 years of age or older, out of sight of that person.

(d) A violation of this Section is a Class A misdemeanor. A second or subsequent violation of this Section is a Class 3 felony. A violation of this Section that is a proximate cause of the death of the child is a Class 3 felony for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 2 years and not more than 10 years.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; 92-515, eff. 6-1-02; 92-651, eff. 7-11-02.)⁸

Recommendation #6: Special Training for Front-line Professionals

Special training for law enforcement, district attorneys/prosecutors and judges regarding what constitutes neglect and reporting requirements should be considered. Child neglect deaths are very complex, especially those involving serious neglect. Training with county, city and state-level personnel who investigate, prosecute and sentence the perpetrators of child fatalities (i.e., law enforcement, district attorneys/prosecutors, and the judiciary) in North Carolina can improve the response to child neglect fatalities. Training for law enforcement, district attorneys/prosecutors and judges would help to ensure that they each are aware of all options available for arresting, charging, convicting and sentencing perpetrators.

Conclusion

NCCAI has used case reviews and state statutes and policies to produce recommendations for potential policy changes and educational efforts. NCCAI has identified a need for more understanding and collaboration between and among social services, medical examiners, law enforcement agencies, prosecutors and other involved agencies.

NCCAI has suggested recommendations to address:

- (1) the need for a public awareness campaign on what constitutes age appropriate and safe supervision;
- (2) the need for a common definition of fatal child neglect for use by all of the disciplines commonly involved with these cases;
- (3) the lack of knowledge over the scope and nature of child neglect fatalities;
- (4) the need for understanding of statutes applicable to serious neglect cases which could lead to better investigation and prosecution;
- (5) the need for more aggressive efforts to protect children through improved and/or supplemented child neglect/endangerment statutes; and,
- (6) the need for improved training of front-line professionals (i.e., law enforcement, prosecutors/district attorneys and judges) on what constitutes neglect and reporting requirements.

Funded by:

This project was supported by Award No. 204-1-03-00E-AH-811 awarded by the United States Department of Justice, through the North Carolina Department of Crime Control and Public Safety/Governor's Crime Commission. The opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice.

Acknowledgements:

Brandy Bynum and Marcia Herman-Giddens led the development of this report, assisted by Meghan Shanahan, and Natalie Towns.

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Appendix 1 State Definitions of Maltreatment

<i>State</i>	<i>Neglect</i>	<i>Physical Abuse</i>	<i>Sexual Abuse</i>	<i>Emotional Abuse</i>	<i>Other</i>
AK	Failure to provide necessary care.	Physical abuse or physical injury.	Sexual abuse or exploitation.	Mental Injury. Injury to emotional well-being, intellectual, psychological capacity of a child, evidenced by an observable and substantial impairment in the ability to function.	Medical neglect of handicapped infants in a medical care facility.
AL	Negligent treatment such as failure to provide; distinction between poverty and neglect.	Harm or threatened, non-accidental injury	Harm or threatened; attempted; or exploitation or attempted. Explicit conduct for pornography, molestation, or prostitution.	Mental injury. Substantial impairment with due regard to culture.	
AR	Failure or refusal to provide.	Acts or omissions. Engaging in conduct creating a substantial possibility of death, permanent or temporary disfigurement, illness or impairment of bodily organ.	Solicitation or participation in sexual activity. Includes exploitation.	Acts or omissions. Observable and substantial impairment in the intellectual or psychological capacity to function within the normal range with due regard to culture.	Failure to support or maintain reasonable contact, abandonment, intentional.
AZ	Unable or unwilling to provide that results in substantial risk of harm.	Impairment of bodily function or disfigurement or the infliction of or allowing physical injury.	Engaging in sexual contact with anyone age 15+ without consent or under age 15 if contact involves only female breast. Lists examples of abuse. Sexual contact with a minor, sexual assault, and sexual exploitation.	Diagnosis by a qualified person of mental condition that was probable result of acts or omissions of the parent.	Abandonment
CA	Failure to provide. Physical or psychological endangerment.	Non-accidental bodily injury including corporal punishment.	Victimization by sexual activities.	Nonphysical mistreatment that results in disturbed behavior of the child.	
CO	Failure to take actions to provide, including educational and medical neglect.	Evidence of physical harm or injury or subjected to reasonable threat.	Sexual abuse including molestation, prostitution, exploitation, touching genitals, buttocks or breasts, or pornography.	Identifiable and substantial impairment of functioning or substantial risk.	Abandonment
CT	Physical neglect whether or not intentional. Unable to provide minimum. Medical, educational, emotional, or moral neglect.	Injury inflicted, non-accidental; injuries at variance with the history; or malnutrition or cruelty.	Inflicted or allowed to be inflicted.	Cruel or unconscionable acts or statements or threats or allowance of such which have direct affect on the child.	In danger of abuse, high-risk newborns
DC	Physical, medical, and material neglect.	Indicators given such as unexplained bruises, welts or marks, burns, water immersion, fractures.	Involvement of a child in sexual activity to provide sexual gratification or financial benefit to perpetrator. Lists signs of sexual abuse.	Emotional neglect. Significant impairment of child's emotional stability or mental health so that ability to function is reduced.	
DE	Failure to provide.	Unjustified force that results in injury, torture.	Exploitative misuse.	Injury resulting in mental or emotional condition due to abuse or neglect.	Exploitation, abandonment, dependency

<i>State</i>	<i>Neglect</i>	<i>Physical Abuse</i>	<i>Sexual Abuse</i>	<i>Emotional Abuse</i>	<i>Other</i>
FL	Omission that is serious disregard. Includes failure to stop other person from neglect.	Willful action that results in specific listed injuries.	Sexual battery, incest, molestation, and exploitation	Mental injury. Inappropriate or excessive use of restraints, bizarre punishment, isolation in a childcare facility, or confinement.	Threatened harm, substance abuse, lack of supervision, environmental neglect (i.e., drug house)
GA	Physical, emotional, educational, cognitive, exploitation, medical	Physical abuse that results in specific listed injuries, Battered Child Syndrome, Factitious Disorder by Proxy.	Allows, permits, or requires child under 18 to engage in sexual acts for the gratification of adults.	Verbal threats or humiliation or bizarre treatment. Results in impaired psychological growth or development.	Abandonment, family violence, failure to thrive
HI	Psychological neglect, failure to provide, or failure to protect.	Physical injuries, non-accidental trauma	Any interfamilial sexual exploitation of a child under 18.	Psychological abuse resulting in disturbed child and substantial impairment of functioning.	Nutritional deprivation, medical care neglect, intentional drugging and poisoning, abandonment, lack of supervision
IA	Denial of critical care. Failure to provide. Religious exemption.	Non-accidental physical injury or at variance with history.	Commission of sex offense or omission. Child prostitution. Presence of illegal drugs. Commission of bestiality in the presence of a minor.	Mental injury to intellectual or psychological capacity evidenced by observable and substantial impairment.	Manufacturing or possession of dangerous substance.
ID	Includes physical neglect, medical neglect, and environmental neglect.	Observable injuries or symptoms.	Sexual conduct or sexual exploitation harming/threatening the health, welfare, or mental injury of the child.		
IL	Includes physical neglect, lack of supervision, environmental neglect, malnutrition, and medical neglect. Religious exemption.	Act or omission inflicted or creates a real and significant danger of physical injury. Includes acts of violence or intimidation directed toward the child that threaten injury or impairment.	Sexual contact or any intentional or knowing touching either directly or through clothing for the purpose of gratification. Includes molestation and exploitation.	Mental injury to intellectual, emotional, or psychological development. Observed and substantial impairment of child functioning in normal range. Regard to culture. Requires professional verification.	Abandonment, substance misuse
IN	Physical or mental condition with impairment or serious endangerment. Intentional and non-intentional.	Physical health seriously endangered due to injury by act or omission. Child is not receiving care or treatment.	Rape, criminal deviant conduct, molestation, exploitation, pornography, seduction, misconduct, indecent exposure, prostitution or incest and the child is not receiving or is unlikely to receive care. Allowing child to participate in obscene performances.	Mental health is seriously endangered due to injury by act or omission; and child is not or unlikely to receive care.	Use of alcohol, controlled substance, or legend drug by mother during pregnancy and child is not receiving or is unlikely to receive care.
KS	Acts or omissions resulting in harm or likelihood. Medical neglect. Physical neglect.	Act or failure to act that results in death, physical harm, or likelihood.	Any contact or interaction used for gratification, permitting pornography, or prostitution.	Acts or omissions that impair social, emotional, or intellectual functioning or likelihood.	Abandonment, lack of supervision, child in need of care (non-abuse and neglect).

<i>State</i>	<i>Neglect</i>	<i>Physical Abuse</i>	<i>Sexual Abuse</i>	<i>Emotional Abuse</i>	<i>Other</i>
KY	Inadequate supervision if caller thinks child may be harmed; child locked up; injury or high risk of injury. Abandonment, lack of supervision; child forced to take drugs or alcohol.	Health or welfare is harmed or threatened with harm. Inflicts or allows non-accidental injury.	Rape, sodomy, incest, sexual penetration with a foreign object, exposing oneself, exposing a child, kissing, touching, fondling in a sexual manner, sexual harassment, and promoting sexual contact with animals.	Creates risk of injury to mental or emotional capacity. Action or inaction. Detailed listing of examples.	Abandonment, dependency, risk of physical abuse and risk of sexual abuse.
LA	Refusal or failure to provide which results in substantial threat or impairment. Financial exemption.	Intentional or not, infliction of physical injury, which seriously endangers health. Exploitative overwork of child.	Any sexual act or pornography or any other sex involvement constituting a crime.	Verbal threats or behavior that results in observable and substantial impairment of well-being and functioning.	Withholding medical treatment or nourishment. No religious exemption.
MA	Failure to take actions to provide. Financial exemption. May get court order for failure to provide medical treatment.	Non-accidental commission causes or substantial risk of serious injury.		Emotional maltreatment: causing or creating substantial risk of serious emotional injury which is impairment or disorder of intellectual or psychological capacity evidenced by observable and substantial reduction in functioning within normal range.	
MD	Failure to provide. Unattended child.	Injury under circumstances that indicate harm or substantial risk.	Molestation or exploitation, incest, rape, or sexual offense.	Mental injury; harm or risk; observable, identifiable, and substantial impairment of mental or psychological functioning.	
ME	Deprivation of essential needs or lack of protection.	Serious injury means serious physical injury or impairment.	Sexual abuse or exploitation	Serious mental or emotional injury likely to be evidenced by serious mental behavior or personality disorder.	Abandonment
MI	Harm or threat by negligent treatment, failure to provide, failure to protect, unreasonable risk, and medical neglect. Poverty exemption.	Non-accidental injury	Sexual exploitation, pornography, engaging in sexual contact	Physical or verbal acts, omissions or environments which render child anxious, agitated, depressed, withdrawn and interferes with age-appropriate milestones.	Failure to protect, improper supervision, abandonment, exploitation
MN	Failure to provide. Failure to protect. Educational neglect. Prenatal exposure to controlled substance.	Non-accidental injury	Subjection of a child to any act that constitutes a violation of criminal sexual conduct.	Mental injury; injury to psychological capacity or emotional stability as evidenced by observable or substantial impairment in the ability to function.	Infant medical neglect
MO	Failure to provide, by those responsible for the care, custody and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical, or any other care necessary for the child's well-being.	Any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control.	Use, persuasion, coercion, inducement, or enticement of child under 18 to engage in or assist in any sexually explicit conduct; exploitation.	Passive or active patterned, non-nurturing behavior by a parent or caretaker that negatively affects or handicaps a child emotionally, psychologically, physically, intellectually, socially, or developmentally.	Medical neglect, educational neglect

<i>State</i>	<i>Neglect</i>	<i>Physical Abuse</i>	<i>Sexual Abuse</i>	<i>Emotional Abuse</i>	<i>Other</i>
MS	Refuses to provide when able or unable to provide.	Physical abuse or non-accidental injury or allowing such an injury or abuse.	Allowed or caused rape, molestation, incest, prostitution, exploitation, pornography that indicates that the child's health or welfare is harmed or threatened.	Mental injury	Exploitation
MT	Physical or failure to thrive. Also, failure to respond to infant's life-threatening illness or to provide adequate health care although able.	Intentional act or intentional omission or gross negligence resulting in substantial impairment of bodily function, injury, pain, disfigurement, or death.	Sexual assault, intercourse without consent, indecent exposure, deviant sexual conduct, ritual abuse, incest in home or institutional.	Acts or omissions; severe injury to emotional, intellectual or psychological functioning. Includes exposure to violence against another person in the home.	Exposure to unreasonable risk, abandonment, fatality
NC	Does not receive proper care, supervision, or discipline from parent, guardian, custodian, or caretaker; or is abandoned or not provided necessary remedial care; or lives in an environment injurious to welfare; or is placed for care in violation of law.	Allows or inflicts serious injury by non-accidental means.	First- or second-degree rape, sexual act or offense; preparing pornography.	Creates serious emotional damage to juvenile evidenced by severe anxiety, depression, withdrawal, or aggressive behavior.	Dependent juvenile
ND	Physical including unattended child, nutrition, clothing, hygiene, educational, medical.	Physical force resulting in injury or the child is placed at significant risk. Or, physical punishment of an infant.	Intercourse, exhibitionism, exploitation, or any sexual contact. Includes failure to protect or prevent.	Parental behavioral patterns with psychological consequences; act or omission.	Abandonment, environmental conditions, failure to protect
NE	Physical neglect, medical neglect of handicapped infant.	Unexplainable or non-accidental injury or inconsistent with explanation. Or substantial risk of bodily injury.	Sexually oriented act, practice, contact, or interaction used for gratification.	Emotional abuse: psychopathological or disturbed behavior in child which is documented by a psychiatrist, psychologist, or MH practitioner to be the result of continual scapegoating, rejection, or exposure to violence by child's parent, caretaker.	Failure to protect, abandonment, environmental conditions
NH	Alcohol and drug abuse; educational neglect; emotional and mental maltreatment; failure to protect; failure to thrive; inadequate meeting of basic needs, lack of supervision and caregiver, medical and dental neglect. Mental health issues; Munchausen's Syndrome by Proxy; poisoning and noxious substances; threatening and menacing behavior.	Lists specific injuries.	Employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in, any sexually explicit conduct or any simulation of this conduct for the purpose of producing any visual depiction; the rapes, molestation, prostitution, or any other form of sexual exploitation of children, or incest with children.	Emotional abuse or neglect. Injury to intellectual or psychological capacity; observable impairment.	Abandonment
NJ	Failure to provide when able.	Physical injury or at risk due to action or inaction that was neither necessary, nor justified, not reasonable, nor appropriate.	Contacts or interactions for gratification.	Conduct causes, allows, or permits significant or persistent emotional pain, harm or impairment.	Lack of adequate supervision

<i>State</i>	<i>Neglect</i>	<i>Physical Abuse</i>	<i>Sexual Abuse</i>	<i>Emotional Abuse</i>	<i>Other</i>
NM	Failure to provide whether intended or not.	Non-accidental injury inflicted or allowed, regardless of motive.	Any incident of sexual contact inflicted or caretaker should have known.	Acts which cause substantial impairment of child's mental or psychological ability to function.	
NV	Failure to provide	Physical injury non-accidental, meaning permanent or temporary disfigurement or impairment of any bodily function or organ of the body.	Acts upon a child including incest, lewdness, molestation, sado-masochism or seduction.	Injury to intellectual or psychological capacity or emotional condition as evidenced by observable and substantial impairment of functioning in normal range.	Excessive corporal punishment
NY	Physical, mental or emotional. Impaired or imminent danger.	Inflicts or allows physical injury; non-accidental, likely to cause death or serious or protracted disfigurement or impairment to health.	Commits or allows sex offense.	Diminished psychological or intellectual functioning attributable to unwillingness or inability to exercise minimum care.	Abandonment, institutional abuse
OH	Abandoned; lacks care; neglects or refuses to provide including medical, educational, and moral.	Evidence of injury or death; non-accidental or an injury at variance with the history. Acts that cause harm or threaten harm.	Activity that would constitute an offense under law, but a conviction not required.	Mental injury; any behavioral, cognitive, or mental disorder in a child caused by act or omission described in code.	
OK	Deliberate or exceptional lack of attention; physical or emotional. Long standing and impacts several aspects of child's life or life threatening. Poor parenting and poverty excepted.	Injury or otherwise harming a child. Severe punishment even if no injury. Minor injuries of child over ten excepted unless child placed in grave physical danger.	Rape, sodomy, incest, lewd or indecent acts or proposals; exploitation for the purpose of sexually stimulating the child or others.	Injury to intellectual or psychological capacity as evidenced by observable and substantial impairment of function in normal range. Mental injury is pattern of cruelty or unconscionable acts.	Abandonment
OR	Failure to provide whether intent or not.	Acts or omissions. Injury regardless of motive, including discipline.	Any incident of sexual contact and exposure or pornography.	Mental injury whether or not intentional.	Abandonment, child selling
PA	Serious physical neglect, prolonged or repeated and endangers child's life or development or impairs child's functioning.	Any recent act or failure to act which causes non-accidental serious physical injury to a child: causes some pain or significantly impairs physical functioning either temporarily or permanently.	A recent act, failure to act, or series that creates an imminent risk of sexual abuse or exploitation. Employment, use, persuasion, inducement, enticement, or coercion to engage or assist in any explicit conduct, pornography, prostitution.	Act or failure to act which causes non-accidental serious mental injury rendering child anxious, depressed, socially withdrawn, psychotic, or reasonable fear that life or safety is threatened, or interferes with development.	Imminent risk
RI	Failure to provide when financially able or failure to provide a minimum degree of care. Includes emotional neglect, medical neglect, or failure to provide psychological treatment.	Inflicts or allows physical injury.	Allow to commit or commit against the child.	Impairment to intellectual or psychological capacity.	Abandonment, dependency, exploitation

<i>State</i>	<i>Neglect</i>	<i>Physical Abuse</i>	<i>Sexual Abuse</i>	<i>Emotional Abuse</i>	<i>Other</i>
SC	Harm, medical neglect, criminal neglect placing the child at unreasonable risk of harm affecting life, health, or safety. Cruelty to children; deprivation.	Death or permanent or temporary disfigurement or impairment.	Sexual battery. Intercourse, cunnilingus, fellatio, and anal intercourse or any intrusion of any part of a person's body or any object into the genital or anal opening except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes.	Injury to the intellectual or psychological capacity of a child evidenced by discernable and substantial impairment. Supported by professional opinion.	Abandonment, cruelty to children. Distinguishes criminal abuse and criminal neglect. Death by child abuse.
SD	Failure to provide, including medical neglect.	Evidence of injury. Consideration for corporal punishment; reasonable force in a moderate degree.	Sexual abuse or exploitation	Emotional maltreatment	
TN	Failure to care or leaving under 8 unattended. Includes environmental, nutritional, educational neglect, and neglect or death.	Abuse resulting in death; acts resulting in injury that requires medical attention; use of life threatening weapons and leading to death or severe physical damage.	Sexual touch or penetration	Behavior related to observable impairment of physical, sexual, cognitive.	Severe drug or alcohol problems that result in harmful conditions or risk of maltreatment. Substantial risk of physical injury. Substantial risk of sexual abuse. Abandonment. Medical maltreatment. Drug exposed child. Drug exposed infant.
TX	Substantial risk of immediate harm; failure to provide medical care that results in substantial harm; failure to provide. Poverty excepted. Failure to protect child from sexual abuse.	Physical injury that results in substantial harm to the child or genuine threat of substantial harm from injury. An injury at variance with history. Reasonable discipline accepted.	Sexual conduct harmful to mental, emotional or physical welfare. Compelling or encouraging sexual conduct. Pornography. Failure to make reasonable effort to prevent sexual conduct harmful to child.	Injury resulting in observable and material impairment of growth, development, or psychological functioning. Causing or permitting child to be in situation to sustain such injury.	Abandonment, causing or permitting use of controlled substance. Substance abuse that results in injury to child.
UT	Physical neglect including failure to provide. Medical neglect.	Non-accidental injury that seriously impairs health or involves torture and causes serious emotional harm or involves substantial risk of death.	Sex abuse, exploitation, or forcing or coercing observation of sexual activities.	Pattern of verbal remarks or parental alienation causing emotional distress; perception or actual threatened harm; teaching illegal behavior; custody disputes leading to multiple CPS referrals, domestic violence related to child abuse and giving child harmful material.	Ritual abuse, dependency
VA	Medical or physical neglect, failure to provide. If poverty, provide services, but no neglect disposition.	Lists specific types of injuries. Includes bizarre discipline.	Sexual abuse, exploitation, molestation, intercourse, and sodomy.	Mental abuse or neglect.	Abandonment

<i>State</i>	<i>Neglect</i>	<i>Physical Abuse</i>	<i>Sexual Abuse</i>	<i>Emotional Abuse</i>	<i>Other</i>
VT	Actions or inactions resulting in injury or illness. Educational neglect.	Physical health, psychological growth and development or welfare is harmed or substantial risk by acts or omissions. Non-accidental injury resulting in death, permanent, or temporary disfigurement, or impairment of any bodily organ or function.	Sexual molestation or exploitation.	Emotional maltreatment resulting in impaired psychological growth and development.	Child in need of care or supervision. Abandonment. Risk of harm. Risk of sexual abuse.
WA	Fails to meet needs or places child at risk of harm.	Non-accidental injury, dangerous acts, cruel or inhumane acts, physical discipline.	Contact, exposure, inappropriate touching, promoting sexual activity or conduct, pornography, prostitution.	Acts or omissions that injure or risk injury to psychological and emotional health or development.	
WI[†]	Failure, refusal, or inability for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care, or shelter so as to seriously endanger the physical health. Threat of neglect.	Physical abuse or threat	Sexual abuse, exploitation of prostitution. Any contact with a sexual part of the body of a child 15 and under.	Emotional damage	Withholding medically indicated treatment.
WV	Failure to provide, medical neglect, educational neglect, lack of supervision. Physical or mental condition harmed or threatened.	“Abused child” means a child whose health or welfare is harmed or threatened by a parent, guardian, or custodian who knowingly or intentionally inflicts, attempts to inflict, or knowingly allows another person to inflict, physical injury or substantial mental or emotional injury, upon the child or another child in the home; sexual abuse or sexual exploitation. Physical injury may include excessive corporal punishment.	Sexual abuse or exploitation is noted under the definition of abuse.	Emotional injury is noted under the definition of abuse.	Abandonment
WY	Failure to provide. Religious exemption. Educational neglect. Lack of supervision.	Death or harm to child including disfigurement, impairment of any bodily organ, skin bruising, bleeding, burns, bone fractures, subdural hematoma, or substantial malnutrition.	The commission or allowance of a sexual offense against a child as defined by law, which includes any sexual contact or exploitation.	Mental Injury. Injury to the psychological capacity or emotional stability of a child as evidenced by observable or substantial impairment in ability to function.	Nutritional deprivation. Abandonment. Withholding medical treatment from handicapped infants. Medical neglect. Lack of supervision. Educational neglect.
[†] Wisconsin data compiled from statutes					
Table Source: National Study of Child Protective Services Systems and Reform Efforts: Chapter 4. Investigation. 2003. Available http://aspe.hhs.gov/hsp/CPS-status03/state-policy03/chapter4.htm#t4-a					

Appendix 2:
Child Neglect Fatalities 2002: Victims & Perpetrators

<i>Victim's Name/Age</i>	<i>Cause of Death</i>	<i>Circumstances of Death</i>	<i>Relationship(s) of Perpetrators(s)</i>	<i>Original Charge</i>	<i>Pled to</i>	<i>Convicted</i>	<i>Sentence</i>
Sage 2 1/2 months	Suffocation due to overlying	Mother placed infant in bed with father while he was sleeping. Father had allegedly used narcotics before going to sleep. Mother allegedly went out to purchase drugs. Child suffocated in the bed.	Mother	Involuntary manslaughter		No probable cause to convict	
Jason 10 weeks	Carbon monoxide poisoning and severe thermal injuries	Infant was left in car with his three year old brother while their mother went into a school to pick up another child. There were conflicting views on the origin of the fire (electrical malfunction vs. 3 year old igniting a bag of chips), which killed the infant.	Mother	No charges; No definitive origin of the fire			
Zamir 6 yrs.	Closed head injury due to motor vehicle-pedestrian collision	Child was crossing a two lane highway without supervision and was hit by a truck.	Mother	No charges against driver; Driver was not at fault			
Hailey 2 yrs.	Drowning	Child was left unattended for several minutes in the bathtub. Child's 14 month old sibling was also in bathtub.	Mother	No charges against mother; DA advised against filing charges.			
Raeanne 2 yrs.	Environmental hyperthermia	Child was left in a van for seven hours at a daycare facility. Driver forgot the decedent was in the vehicle.	Daycare provider/ van driver	No charges against driver; DA cited lack of criminal intent; Daycare was closed due to multiple violations and substantiated neglect			
Dakota 2 yrs.	Drowning	Child was being cared for by a babysitter who was also watching five other children. He was found at the bottom of the pool.	Babysitter	No charges; Law enforcement cited lack of criminal intent			
Baxter 13 yrs.	Multiple blunt force injuries	Child was riding an ATV unsupervised.	Mother	No charges			
Clementine 7 months	Asphyxiation	Child was found face down in (an older) crib between the mattress and the wooden railing.	Parents	Considered accidental by law enforcement; Based on ME report; No charges			
Stephen 1 yr.	Abdominal trauma due to motor vehicle vs. pedestrian	Child was left unattended in a car with his siblings. He got out of the car and walked to the front of it. As he was doing this his brother got into the front seat and put the car in gear. The car struck the child in his torso.	Parents	No charges			
Kara 7 yrs.	Multiple trauma	Unsupervised child ran out into traffic and was hit by a truck.	Unknown	No charges			

Victim's Name/Age	Cause of Death	Circumstances of Death	Relationship(s) of Perpetrator(s)	Original Charge	Pled to	Convicted	Sentence
Jesse 9 yrs.	Closed head injury	Child was riding an ATV without a helmet.	Unknown	No charges			
Theresa 5 yrs.	Severe closed head injury due to motor vehicle vs. pedestrian	Child was walking with a babysitter and other children. She darted out into the street and was hit by a car.	Babysitter	No charges			
Jacob 6 yrs.	Crushing blunt force trauma to head	Child was playing in a car that was not running. He put the car in gear and it started rolling backwards. He was run over by the car when he tried to get out. Child's stepfather and five of his friends attempted to stop the vehicle from rolling.	Stepfather	No charges			
Palmer 5 yrs.	Traumatic head and chest injuries due to motor vehicle crash	Child was riding in a car unrestrained. His mother ran a stop sign and was struck by another car. He was thrown from the vehicle and pronounced dead at the scene. Child's sibling was also in vehicle, unrestrained and thrown from the vehicle. Sibling died at the hospital.	Mother	Death by Vehicle; Failure to Stop at Stop sign/ Flashing Red Light; Fail to Secure Passenger Under 16	Reckless Driving to Endanger	Charges Consolidated (Failure to stop at stop sign/flashing red light); Failure to Secure Passenger under 16 that charge was dismissed pursuant to agreement; \$100 Fine; \$90 Court Costs; \$25 Restitution	30 days suspended sentence with 1 year of unsupervised probation
Nathan 1 yr.	Positional asphyxia	Child found wedged between two child beds. History of child being found head down between child beds.	Unknown	No charges			
Kaleigh 9 yrs.	Blunt force trauma to head and abdomen	Child got out of car driven by her mother on a busy street to pick up a turtle and was struck by a car.	Unknown	No charges			
Cassandra 9 yrs.	Massive head trauma	Child was riding an ATV without a helmet.	Unknown	No charges			
Eben 2 yrs.	Severe head trauma, blunt force trauma	Child was left outside unsupervised and was hit by a fuel truck that was leaving his driveway.	Mother	No charges			
Felton 5 months	Multiple blunt force injuries to head	Child was in a car seat that was improperly installed. The driver of the car he was in ran a stop sign and was struck by another car.	Father; Driver was father	No charges; Driver deceased			
Jaron 3 1/2 months	Positional asphyxia	Infant was placed in a single bed by the mother's 12 year old friend. When the mother woke up at 10 am and checked on the baby, he was wedged between the mattress and the wall.	Mother	No charges			
*Names of victims have been changed to protect the identity of those involved.							
**Note: The case below did involve some form of child neglect and/or endangerment (i.e., lack of helmet), though there was insufficient evidence to determine if the death should be considered serious neglect because of the juvenile's age.							
Tate** 16 yrs.	massive head injury	Minor was riding an ATV without a helmet on the street. He drove into the path of a truck.	Unknown	No charges against driver			

Appendix 3

State Child Endangerment Statutes

<i>State</i>	<i>State Child Endangerment Statutes</i>	<i>Age</i>	<i>Elements</i>
Alabama	Ala. Code § 13A-13-6 (2003): Endangering welfare of child	Under 18	Fails to exercise reasonable diligence in the control of such child to prevent him or her from becoming a "dependent child" or a "delinquent child," as defined in Section 12-15-1.
Alaska	Alaska Stat. § 11.51.100 (Michie 2003): Endangering the welfare of a child in the first degree	Under 16	Intentionally deserts the child in a place under circumstances creating a substantial risk of physical injury to the child or leaves the child with another person who is not a parent, guardian, or lawful custodian of the child knowing that the person has previously physically mistreated or had sexual contact with any child, and the other person causes physical injury or engages in sexual contact with the child.
Arizona	Ariz. Rev. Stat. § 13-3619 (2003): Permitting life, health or morals of minor to be imperiled by neglect, abuse or immoral associations	Under 16	A person having custody of a minor under sixteen years of age who knowingly causes or permits the life of such minor to be endangered, his/her health to be injured or his/her moral welfare to be imperiled, by neglect, abuse or immoral associations, is guilty of a class 1 misdemeanor.
Arkansas	Ark. Code Ann. § 5-27-203, 204 (Michie 2003): Endangering welfare of minor in the first degree	Under 10	Purposely deserts a minor less than ten (10) years old under circumstances creating a substantial risk of death or serious physical injury. A person commits the offense of endangering the welfare of a minor in the second degree if he knowingly engages in conduct creating a substantial risk of serious harm to the physical or mental welfare of one known by the actor to be a minor.
California	Cal. Penal Code § 273a (West 2003): Endangering child or causing or permitting child to suffer physical pain, mental suffering, or injury	-----	Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished....
Colorado	Colo. Rev. Stat. 18-6-401 (2003): Child abuse	-----	A person commits child abuse if such person causes an injury to a child's life or health, or permits a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, or engages in a continued pattern of conduct that results in malnourishment, lack of proper medical care, cruel punishment, mistreatment, or an accumulation of injuries that ultimately results in the death of a child or serious bodily injury to a child.
Connecticut	Conn. Gen. Stat. § 53-21 (2003): Injury or risk of injury to, or impairing morals of, children. Sale of children	Under 16	Any person who willfully or unlawfully causes or permits any child under the age of sixteen years to be placed in such a situation that the life or limb of such child is endangered, the health of such child is likely to be injured or the morals of such child are likely to be impaired, or does any act likely to impair the health or morals of any such child ... shall be guilty....
Delaware	Del. Code Ann. tit. 11. § 1102 (2003): Endangering the welfare of a child	Under 18	A person is guilty of endangering the welfare of a child when being a parent, guardian or any other person who has assumed responsibility for the care or supervision of a child less than 18 years old, the person knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of the child; or intentionally does or fails to do any act, with the result that the child becomes a neglected child.

State	State Child Endangerment Statutes	Age	Elements
District of Columbia	D.C. Code Ann. § 22-1101 (2003): Cruelty to children in the second degree	-----	A person commits the crime of cruelty to children in the second degree if that person intentionally, knowingly, or recklessly maltreats a child or engages in conduct which causes a grave risk of bodily injury to a child.
Florida	Fla. Stat. ch. 827.03 (2003): Abuse, aggravated abuse, and neglect of a child; penalties	-----	“Neglect of a child” means a caregiver’s failure or omission to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child.
Georgia	Ga. Code Ann. § 16-5-70 (2002): Cruelty to children	Under 18	A parent, guardian, or other person supervising the welfare of or having immediate charge or custody of a child under the age of 18 commits the offense of cruelty to children in the first degree when such person willfully deprives the child of necessary sustenance to the extent that the child’s health or well-being is jeopardized. Any person commits the offense of cruelty to children in the first degree when such person maliciously causes a child under the age of 18 cruel or excessive physical or mental pain.
Hawaii	Haw. Rev. Stat. § 709-904 (2003): Endangering the welfare of a minor in the second degree	-----	A person commits the offense of endangering the welfare of a minor in the second degree if, having care or custody of a minor, the person recklessly allows another person to inflict serious or substantial bodily injury on the minor.
Idaho	Idaho Code § 18-1501 (2003): Injury to children	-----	Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable....
Illinois	720 Ill. Comp. Stat. 5/12-21.6 (West 2003): Endangering the life or health of a child	Under 18	It is unlawful for any person to willfully cause or permit the life or health of a child under the age of 18 to be endangered or to willfully cause or permit a child to be placed in circumstances that endanger the child’s life or health.
Indiana	Ind. Code § 35-46-1-4 (2004): Neglect of a dependent—Child selling	-----	A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally places the dependent in a situation that endangers the dependent’s life or health; abandons or cruelly confines the dependent; deprives the dependent of necessary support; or deprives the dependent of education as required by law; commits a felony.
Kansas	Kan. Stat. Ann. § 21-3608 (2002): Endangering a child	Under 18	Endangering a child is intentionally and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child’s life, body or health may be injured or endangered.
Kentucky	Ky. Rev. Stat. Ann. 530.060 (2003) endangering the welfare of a minor	-----	A parent, guardian or caregiver who fails or refuses to exercise reasonable diligence in the control of such child to prevent him from becoming a neglected, dependent, or delinquent child.

State	State Child Endangerment Statutes	Age	Elements
Maine	Me. Rev. Stat. Ann. tit. 17, § 554 (West 2003): Endangering the welfare of a child	Under 16	A person is guilty of endangering the welfare of a child if that person, being a parent, foster parent, guardian or other person responsible for the long-term general care and welfare of a child under 16, recklessly fails to take reasonable measures to protect the child from the risk of further bodily injury or otherwise recklessly endangers the health, safety or welfare of a child under 16 years of age by violating a duty of care or protection.
Massachusetts	Mass. Gen. Laws ch 265, § 13L (2003): Reckless Endangerment of Children	-----	Whoever wantonly or recklessly engages in conduct that creates a substantial risk of serious bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to alleviate such risk where there is a duty to act shall be punished by imprisonment in the house of correction for not more than 2½ years.
Michigan	Mich. Comp. Laws § 750.136b (2003): Definitions; child abuse	-----	A person is guilty of child abuse in the second degree if the person's omission causes serious physical harm or serious mental harm to a child or if the person's reckless act causes serious physical harm to a child, if the person knowingly or intentionally commits an act likely to cause serious physical or mental harm to a child regardless of whether harm results, or if the person knowingly or intentionally commits an act that is cruel to a child regardless of whether harm results.
Minnesota	Minn. Stat. § 609.378 (2003) Neglect or endangerment of a child	-----	Endangerment occurs when a parent, legal guardian, or caretaker who endangers the child's person or health by intentionally or recklessly causing or permitting a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death.
Mississippi	Miss. Code Ann. § 97-5-39 (2003): Contributing to the neglect or delinquency of a child; felonious abuse and/or battery of a child	-----	Any parent, guardian or other person who willfully commits any act or omits the performance of any duty, which act or omission contributes to or tends to contribute to the neglect or delinquency of any child or which act or omission results in the abuse and/or battering of any child shall be guilty of a misdemeanor.
Missouri	Mo. Rev. Stat. § 568.050 (2003): Endangering the welfare of a child in the second degree	-----	A person commits the crime of endangering the welfare of a child in the second degree if he with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years old; or being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years old, he recklessly fails or refuses to exercise reasonable diligence in the care or control of such child.
Montana	Mont. Code. Ann. § 45-5-622 (2003): Endangering welfare of children	Under 18	A parent, guardian, or other person supervising the welfare of a child less than 18 years old commits the offense of endangering the welfare of children if the parent, guardian, or other person knowingly endangers the child's welfare by violating a duty of care, protection, or support.
Nebraska	Neb. Rev. Stat. § 28-707 (2003): Child abuse; privileges not available; penalties	-----	A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be placed in a situation that endangers his or her life or physical or mental health.
Nevada	Nev. Rev. Stat. § 200.508 (2003): Abuse, neglect or endangerment of child: Penalties; definitions	Under 18	A person who willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect.

State	State Child Endangerment Statutes	Age	Elements
New Hampshire	N.H. Rev. Stat. § 639:3 (2003): Endangering Welfare of Child or Incompetent	Under 18	A person is guilty of endangering the welfare of a child or incompetent if he knowingly endangers the welfare of a child under 18 years of age or of an incompetent person by purposely violating a duty of care, protection or support he owes to such child or incompetent, or by inducing such child or incompetent to engage in conduct that endangers his health or safety.
New Jersey	N.J. Stat. Ann. § 2C:24-4 (West 2001): Endangering welfare of children	————	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 is guilty of a crime.
New Mexico	N.M. Stat. Ann. § 30-6-1 (Michie 2003): Abandonment or abuse of a child	————	Abuse of a child consists of a person knowingly, intentionally or negligently, and without justifiable cause, causing or permitting a child to be placed in a situation that may endanger the child's life or health.
New York	N.Y. Penal Law § 260.10 (McKinney 2003): Endangering the welfare of a child	Under 18	A person is guilty of endangering the welfare of a child when being a parent, guardian or other person legally charged with the care or custody of a child less than eighteen years old, he fails or refuses to exercise reasonable diligence in the control of such child to prevent him from becoming an "abused child," a "neglected child," a "juvenile delinquent" or a "person in need of supervision," as those terms are defined in articles ten, three and seven of the family court act.
North Carolina	N.C. Gen. Stat. § 14-318.2 (2003): Child abuse a Class 1 misdemeanor	Under 16	Any parent of a child less than 16 years of age, or any other person providing care to or supervision of such child, who inflicts physical injury, or who allows physical injury to be inflicted, or who creates or allows to be created a substantial risk of physical injury, upon or to such child by other than accidental means is guilty.
Ohio	Ohio Rev. Code Ann. § 2919.22 (Anderson 2003): Endangering children	Under 18	No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support.
Oklahoma	Okla. Stat. tit. 21, § 852.1 (2002): Child endangerment—Knowingly permitting physical or sexual abuse—Good faith reliance on spiritual healing—Penalties	————	A person who is the parent, guardian, or person having custody or control over a child commits child endangerment when the person knowingly permits physical or sexual abuse of a child.
Oregon	Or. Rev. Stat. § 163.575 (2001) Endangering the welfare of a minor	Under 10	A person having custody or control of a child under 10 years of age commits the crime of child neglect in the second degree if, with criminal negligence, the person leaves the child unattended in or at any place for such period of time as may be likely to endanger the health or welfare of such child.
Pennsylvania	18 Pa. Cons. Stat § 4304 (2003): Endangering welfare of children	Under 18	A parent, guardian, or other person supervising the welfare of a child under 18 years of age commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection, or support.
Rhode Island	R.I. Gen. Laws § 11-9-5 (2003): Cruelty to or neglect of child	Under 18	Every person having the custody or control of any child under the age of eighteen (18) years who shall abandon that child, or who shall treat the child with gross or habitual cruelty, or who shall wrongfully cause or permit that child to be an habitual sufferer for want of food, clothing, proper care, or oversight, or who shall use or permit the use of that child for any wanton, cruel, or improper purpose...shall be guilty....

State	State Child Endangerment Statutes	Age	Elements
Tennessee	Tenn. Code Ann. § 39-15-401 (2003): Child abuse and neglect	Under 18 Under 6	Any person who knowingly, other than by accidental means, treats a child under eighteen (18) years of age in such a manner as to inflict injury or neglects such a child so as to adversely affect the child's health and welfare commits a Class A misdemeanor; provided, however, that if the abused or neglected child is six (6) years of age or less, the penalty is a Class D felony.
Texas	Tex. Penal Code Ann § 22.041 (West 2004): Abandoning or Endangering Child	Under 15	A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or omission, engages in conduct that places a child younger than 15 years in imminent danger of death, bodily injury, or physical or mental impairment.
Utah	Utah Code Ann. § 76-5-109 (2003): Child Abuse	-----	Any person who inflicts upon a child serious physical injury or, having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child is guilty of a felon if done recklessly, and a misdemeanor if done with criminal negligence.
Vermont	Vt. Stat. Ann. tit. 13 § 1305 (2003): Cruelty by person having custody of another	-----	A person having the custody, charge, care or control of another person, who inflicts unnecessary cruelty upon such person, or unnecessarily and cruelly fails to provide such person with proper food, drink, shelter or protection from the weather, or unnecessarily and cruelly neglects to properly care for such person, shall be imprisoned.
Virginia	Va. Code Ann. § 18.2-371.1 (Michie 2003): Abuse and neglect of children; penalty; abandoned infant	Under 18	Any parent, guardian, or other person responsible for the care of a child under the age of 18 whose willful act or omission in the care of such child was so gross, wanton and culpable as to show a reckless disregard for human life shall be guilty.
West Virginia	W. Va. Code § 61-8D-3 (2003): Child abuse resulting in injury; child abuse or neglect creating risk of injury; criminal penalties	-----	Any person who abuses a child and by the abuse creates a substantial risk of serious bodily injury or of death to the child is guilty of a felony and, upon conviction thereof, shall be fined not more than three thousand dollars and confined to the custody of the division of corrections for not less than one nor more than five years.
Wisconsin	Wis. Stat. § 948.03 (2003): Physical abuse of a child	-----	Whoever recklessly causes great bodily harm, bodily harm, or causes bodily harm to a child by conduct that creates a high probability of great bodily harm is guilty of a felony. A person responsible for the child's welfare is guilty of a felony if that person fails to take that action and the failure to act exposes the child to an unreasonable risk of great bodily harm by another person or facilitates the great bodily harm to the child that is caused by another person.
Wyoming	Wyo. Stat. Ann. § 6-4-403 (Michie 2003): Abandoning or endangering children; penalties; "child"; disclosure or publication of identifying information; "minor victim"	-----	No parent, guardian or custodian of a child shall knowingly or with criminal negligence cause, permit or contribute to the endangering of the child's life or health by violating a duty of care, protection or support.

Appendix 4

Interviews with Local and State Law Enforcement Officials

Total = 15 Interviews with Law Enforcement Personnel

Note: There were 20 cases reviewed but only 15 interviews conducted with law enforcement due to time and scheduling conflicts. (One case had two different officers interviewed.)

1) What was the outcome of the investigation?

1 mother was charged with misdemeanor death by vehicle (reckless driving)
1 mother was charged with involuntary manslaughter (case was dismissed; lack of probable cause)
12 had no charges filed (1 because perpetrator died in crash)

2 out of 15 officers/detectives mentioned that they pursued the case with a district attorney (DA) but was told the case would not go to trial because it could not be won. One officer stated the DA felt that it would be “rubbing salt in the wound to prosecute the family.”

2) How extensive was the investigation?

All 15 officers reported that the cases had an extensive investigation

3) Was DSS contacted to see if the family had a child protective services history?

(One case had two different officers interviewed.)

6 answered yes
5 were not sure
4 reported no

4) Was the case reported to DSS?

(One case had two different officers interviewed.)

9 answered yes
1 was not sure
5 answered no

5) Do you think that neglect or child endangerment was involved?

(One case had two different officers interviewed.)

4 answered yes (interestingly, for the case where two officers were interviewed they did not agree)
4 were not sure
6 answered no
1 did not answer

6) Was there a delay in law enforcement (LE) notification or was it promptly at the time of the incident?

All 15 law enforcement officers reported that there was immediate notification to law enforcement about the incident.

7) Do you think a child endangerment law would be helpful in these types of cases?

(One case had two different officers interviewed.)

6 answered yes
6 answered that they were not sure
3 answered no

**8) What has been your experience with these types of cases?
Do you feel that perpetrators are punished fairly across the board or are there varying degrees of justice?**

(One case had two different officers interviewed.)

- 6 answered that there are varying degrees of justice for cases such as these
- 4 answered that across the board either nothing is done or not enough is done
- 1 answered that perpetrators are punished fairly
- 2 did not fully answer the question
- 2 answered that they did not know if perpetrators were punished fairly across the board

9) In your experience, how often are these types of cases handled in your agency?

(One case had two different officers interviewed.)

- 0 answered never
- 6 answered rarely
- 4 answered sometimes
- 5 answered often
- 0 answered always

10) How often do you make reports to DSS?

(One case had two different officers interviewed.)

- 0 answered never
- 5 answered rarely
- 5 answered sometimes
- 1 answered often
- 2 answered always
- 1 did not know
- 1 was not asked

11) How often does DSS make reports to your agency?

(One case had two different officers interviewed.)

- 1 answered never
- 3 answered rarely
- 1 answered sometimes
- 3 answered often
- 2 answered always
- 4 did not know
- 1 unanswered

Comments:

- Make it where a law can be enforced! Laws need to be worded so that they can be enforced.
- Judges are often reluctant to take children away from their parents, but it is too late when the child dies. I wish I could do more, but I don't know how to solve the problem.
- I am glad someone is looking into this and we can save some of these children.
- It would be great if you could make laws tougher on people.
- This was just a sad tragic accident. (This comment was in reference to a 9-year-old girl driving an adult ATV.)
- Instead of making more laws, people should be taught more parenting and life skills in high school. Or individuals who receive government assistance for their children should be required to attend a parenting class for a few days.



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