

APPENDIX B

GLOSSARY

SELECTED STATUTORY DEFINITIONS

Adult means a person who is eighteen years of age or older. §32A-1-4.

Child means a person who is less than eighteen years old. §32A-1-4.

Custodian means an adult with whom the child lives who is not a parent or guardian. §32A-1-4.

Delinquent Child: A child is adjudicated delinquent when the child commits an act that would be designated a crime if committed by an adult. §32A-2-3(A).

Delinquent Offender: A “delinquent offender” is a delinquent child who is subject to juvenile sanctions only and who is not a youthful offender or serious youthful offender. §32A-2-3(C).

Department, or CYFD, means the Children, Youth and Families Department, unless otherwise specified. §32A-1-4.

Guardian means a person appointed as a guardian by a court or Indian tribal authority or a person authorized to care for the child by a parental power of attorney as permitted by law. §32A-1-4.

Guardian ad litem or GAL means an attorney appointed by the children's court to represent and protect the best interests of the child in a court proceeding; provided that no party or employee or representative of a party to the proceeding shall be appointed to serve as a GAL. §32A-1-4.

Indian child means an unmarried person who is:

- (1) less than eighteen years old;
- (2) a member of an Indian tribe or is eligible for membership in an Indian tribe; and
- (3) the biological child of a member of an Indian tribe. §32A-1-4.

Indian child's tribe means:

- (1) the Indian tribe in which an Indian child is a member or eligible for membership; or
- (2) in the case of an Indian child who is a member or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has more significant contacts. §32A-1-4.

Indian tribe means a federally recognized Indian tribe, community or group pursuant to 25 U.S.C. §1903(1). §32A-1-4.

Legal custody means a legal status created by order of the court or other court of competent jurisdiction or by operation of statute that vests in a person, department or agency the right to determine where and with whom a child shall live; the right and duty to protect, train and discipline the child and to provide the child with food, shelter, personal care, education and ordinary and emergency medical care; the right to consent to major medical, psychiatric, psychological and surgical treatment and to the administration of legally prescribed psychotropic medications pursuant to the Children's Mental Health and Developmental Disabilities Act; and the right to consent to the child's enlistment in the armed forces of the United States. §32A-1-4.

Parent or parents includes a biological or adoptive parent if the biological or adoptive parent has a constitutionally protected liberty interest in the care and custody of the child. §32A-1-4.

Serious youthful offender: A “serious youthful offender” is a person 15 to 18 years old who is charged, indicted, and bound over for trial for first degree murder. A serious youthful offender is not a delinquent child for purposes of the Delinquency Act. §32A-2-3(H).

Tribal court means:

- (1) a court established and operated pursuant to a code or custom of an Indian tribe; or
 - (2) any administrative body of an Indian tribe that is vested with judicial authority.
- §32A-1-4.

Tribal court order means a document issued by a tribal court that is signed by an appropriate authority, including a judge, governor or tribal council member, and that orders an action that is within the tribal court's jurisdiction. §32A-1-4.

Youthful offender: A “youthful offender” is a delinquent child subject to adult or juvenile sanctions who is 14 up to 18 years of age at the time of the offense and who is adjudicated for one of the following offenses:

- second degree murder;
- assault with intent to commit a violent felony;
- kidnapping;
- aggravated battery with a deadly weapon or in a manner which inflicts great bodily harm;
- shooting at a dwelling or occupied building or from a motor vehicle;
- dangerous use of explosives;
- criminal sexual penetration;
- robbery;
- aggravated burglary;
- aggravated arson; or
- abuse of a child that results in great bodily harm or death to a child. §32A-2-3(J)(1).

A juvenile adjudicated for any felony offense following three or more previous adjudications for separate felony offenses in the preceding three years is also a “youthful offender,” NMSA §32A-2-3(J)(2), as is a 14 year old who is adjudicated for first degree murder, NMSA §32A-2-3(J)(3).