

13-3612. Definitions; contributing to dependency or delinquency

For the purposes of sections 13-3613 through 13-3618, unless the context otherwise requires:

1. "CONTROLLED SUBSTANCES" MEANS ANY DRUG LISTED IN § 13-3401 UNLESS TAKEN AS PRESCRIBED BY A MEDICAL PRACTITIONER LICENSED PURSUANT TO TITLE 32 CHAPTERS 7, 11, 13, OR 17.

2. "Delinquency" means any act THAT CONTRIBUTES TO, CAUSES OR TENDS TO CAUSE A CHILD that tends to debase or injure the morals, health or welfare of a child. TO violate a law of this state, or an ordinance of a county, city or town defining A crime.

3. "Delinquent person" includes any person under the age of eighteen years who violates a law of this state, or an ordinance of a county, city or town defining A crime.

4. "Dependent person" means a person under the age of eighteen years:

(a) Who is found ~~begging, receiving or gathering alms, whether actually begging or under the pretext of selling or offering anything for sale~~ **TO HAVE NO AVAILABLE MEANS OF OBTAINING FOOD AND SHELTER ADEQUATE FOR A PERSON OF THEIR AGE.**

(b) ~~Who is found in a street, road or public place with the intent of begging, gathering or receiving alms.~~

(c) ~~Who is a vagrant.~~

(d) ~~Who is found wandering and who does not have a home, or a settled place of abode, or a guardian or any visible means of subsistence.~~

(e) Who has no parent or guardian willing to exercise, or capable of exercising, proper parental control over the dependent person.

(f) ~~Who is destitute.~~

(g) Whose home, by reason of neglect, cruelty or depravity of the dependent person's parents, or either of them, or on the part of the dependent person's guardian, or on the part of the person in whose custody or care the dependent person may be, is an unfit place for such person.

(h) ~~Who frequents the company of reputed criminals, vagrants or prostitutes.~~

(i) ~~Who is found living or being in a house of prostitution or assignation.~~

(j) ~~Who habitually visits, without a parent or guardian, a saloon or place where spirituous, vinous or malt liquors are sold, bartered or given away.~~

(k) ~~Who persistently refuses to obey the reasonable orders or directions of the dependent person's parent or guardian.~~

(l) Who is incorrigible **BY REASON OF THEIR OWN VICIOUS CONDUCT OR NATURE** and who is beyond the control and power of the dependent person's parents, guardian or custodian.

(m) ~~Whose father or mother is dead, or has abandoned the family, or is an habitual drunkard, or whose father or mother does not provide for the person, and it appears that the person is destitute of a suitable home or adequate means of obtaining an honest living, or who is in danger of being brought up to lead an idle, dissolute and immoral life, or when both parents are dead, or the mother or father, if living, is unable to provide proper support and care of the person.~~

(n) Who habitually uses ~~intoxicating liquor as a beverage, habitually smokes cigarettes or uses opium, cocaine, morphine or other similar drugs~~ **ALCOHOL OR CONTROLLED SUBSTANCES.** ~~without direction of a competent physician or a qualified registered nurse practitioner.~~

~~(e) Who from any cause is in danger of growing up to lead an idle, dissolute or immoral life.~~

(g) IS A DRUG ENDANGERED CHILD BECAUSE THE PARENT, GUARDIAN, OR THE PERSON HAVING THE CARE OR CUSTODY OF THE DEPENDENT PERSON IS:

(1) AN HABITUAL USER OF ALCOHOL OR CONTROLLED SUBSTANCES AND WHO:

(i) IS UNWILLING OR INCAPABLE OF EXERCISING PROPER CONTROL OVER THE CHILD;

(ii) IS UNWILLING OR INCAPABLE OF PROVIDING NECESSARY EMOTIONAL SUPPORT TO THE CHILD;

(iii) IS UNWILLING OR INCAPABLE OF PROVIDING A SUITABLE HOME OR ENVIRONMENT FOR THE CHILD AS DEMONSTRATED BY NEGLIGENCE, ABUSE, UNSANITARY OR DANGEROUS CONDITIONS, LACK FOOD OR OTHER NECESSARY PROVISIONS, OR ACCESS TO HARMFUL MATERIALS; OR

(iv) PLACES THE DEPENDENT PERSON IN DANGER THROUGH EXPOSURE TO ALCOHOL OR CONTROLLED SUBSTANCES OR THE ASSOCIATION WITH PERSONS UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCES.

(2) IMPAIRED TO THE DEGREE THAT THE DEPENDENT PERSON IS ENDANGERED WITH A RISK OF HARM.

13-3613. Contributing to delinquency and dependency; classification; procedure

A. A person who by any act, causes, encourages or contributes to the dependency or delinquency of a child, as defined by section 13-3612, or who for any cause is responsible therefor is guilty of a class 1 misdemeanor.

B. A PERSON WHO, IN THE COURSE OF CONTRIBUTING TO THE DELINQUENCY OR DEPENDENCY OF A CHILD, WILLFULLY ENDANGERS, CAUSES OR INFLECTS PHYSICAL PAIN OR MENTAL SUFFERING OR WHILE HAVING THE CARE OR CUSTODY OF ANY CHILD, WILLFULLY CAUSES OR PERMITS THE HEALTH OF THAT CHILD TO BE ENDANGERED OR INJURED IS GUILTY OF A CLASS 6 FELONY.

~~C. When the charge concerns the dependency of a child or children, the offense for convenience may be termed contributory dependency, and when the charge concerns the delinquency of a child or children, the offense for convenience may be termed contributory delinquency.~~

13-3614. Proof of guilt

~~In order to find a~~ **A** person **IS** guilty of violating the provisions of section 13-3613, it is not necessary to prove that the child has actually become dependent or delinquent, if ~~it~~ appears from the evidence **SHOWS** that through any act of neglect or omission of duty, ~~or by any improper act or conduct on the part of such person~~ the dependency or delinquency of a child may have been merely encouraged; **PROOF OF ACTUAL DEPENDENCY OR DELINQUENCY IS NOT REQUIRED.**

~~13-3615. Suspension of sentence upon posting bond; custody of child; revocation of suspension~~

~~A. The sentence which may be imposed by section 13-3613, or its execution, may be suspended by the court upon condition that defendant give a good and sufficient bond to the state in such penal sum as the court determines, not exceeding one thousand dollars, conditioned for the payment of an amount the court may order, not exceeding thirty dollars per month, for the support, care and maintenance of the child to whose dependency the~~

~~person has contributed, and the money shall be expended under direction of the court for such purposes.~~

~~B. In suspending the sentence, or its execution, the court may also permit the child to remain in the custody of the defendant upon conditions as the court deems proper.~~

~~C. When it appears to the court that any condition contained in the bond or imposed by the court in permitting the child to remain in custody of defendant has been breached, the court may revoke the suspension, and the sentence thereunder shall commence from the date upon which the sentence is imposed or ordered to be enforced.~~