Introducing the concept of neglect in the context of state legal definitions in the United States, this study aims to compare state definitions with those specified in the Fourth National Incidence Survey (NIS-4). The author examines each legal definition for various categories of neglect, including physical neglect, educational neglect, and emotional neglect. The study also considers exclusions like religious exemptions and involuntary neglect.

Research Questions:

The author presents two research questions: 1) What aspects of the NIS-4 definitions of neglect will appear in the state legal definitions of neglect? and 2) Can states be grouped by what is and is not included in their definitions of neglect?

Findings:

After coding the contents of each state’s definition, the author sorts states into one of three clusters based on the number of definitional aspects for each type of neglect contained in the statute and the similarity of those aspects with other states. Analysis results in three clusters.

The Minimalist Cluster contains 15 states, characterized by an average of 5.4 definitional aspects, with common aspects including lack of supervision, lack of medical care, and abandonment. 80% of these states require actual harm before legal threshold for neglect is met, but only 13% offer an involuntary neglect exemption. 80% included a general religious exemption.

The Cornerstones Cluster contains 31 states, including lack of medical care and inadequate food and shelter. Common aspects in this cluster included inadequate clothing, inadequate supervision, and abandonment. 87% of states in this cluster determined threat of harm to meet legal threshold for neglect. 61%...
of these states contained a religious exemption, and 52% contained an exemption for involuntary neglect.

Five states belonged to what the author calls the Expanded Definitions Cluster. These states had legal definitions most likely to be child focused (60%) and to indicate threat of harm as sufficient to be deemed neglect (80%). This cluster showed the highest level of certain emotional neglect definitional aspects, with 80% of these states including failure to seek treatment for an emotional problem in their definitions of neglect and 40% including knowingly permitting substance abuse. This cluster also had the highest percentage of states including exposure to drug activity in their definitions of neglect at 60%.

Recommendation:

The author notes that these definitions provide a window into the level of discretion state-level officials have when intervening in potential maltreatment cases. For example, a state that requires actual harm to meet the threshold for neglect may miss an opportunity for preventative services when threat of harm is detected. Furthermore, states lacking the involuntary neglect exemption will prevent child protection workers from considering the full family, community, and social environment when making a determination about a given family. States in the Cornerstones Cluster offer more discretion but lack the child-focused definitional aspect that allows child protection workers to focus on the effects on the child rather than the behavior of the parent when identifying neglect, an approach that has gained popularity among neglect researchers.

The author also notes that the way states define neglect may determine the financial resources available for treatment. As such, expanding legal definitions of neglect may also expand the number and diversity of resources child protection workers can offer families to treat and prevent neglect.

Bottom Line:

Many states use legal definitions of neglect that lack the full range of physical, educational, and emotional definitional aspects studied in the NIS-4. Some states’ definitions lag far behind best practices for understanding and treating neglect, such as setting the threshold for neglect at threat of harm or including an exemption for involuntary neglect.

The author notes the importance of legal definitions of neglect that align with the needs of children and families, as legislation generally determines funding priorities. For example, the passage of the Family First Prevention Services Act passed in early 2018 will likely increase states’ focus on the impact of substance abuse, given the new provision enabling states to use IV-E funds for substance abuse treatment to prevent children from entering foster care. Professionals wishing to reduce neglect in their states should assess how an amendment to their current definition of neglect could bring funds to the programs and services families need most.

In addition to contributing to the body of research on how states define neglect, this article can serve as a practical resource to state leaders interested in comparing their state’s definition of neglect with both the NIS-4 and other states, potentially offering a blueprint for amending or
expanding their state’s definition to better align with current neglect research. Updating a state’s definition of neglect may offer new resources and pathways to improve practice around the treatment, intervention, and prevention of neglect.


About the Research to Practice Brief Author

Bri Stormer, MSW, is Manager of Publications and Special Projects for APSAC, where she staffs APSAC’s publications, state chapters, and student and young professional division (YAPSAC). Bri earned her Bachelor of Arts in Psychology and Theatre from Case Western Reserve University and her Master’s in Social Work with a concentration in Community Organizing, Planning, and Administration from University of Southern California.