

IMMINENT RISK

The term "imminent risk", as contained in the definition of child abuse in the Child Protective Services Law (CPSL), is any recent act, failure to act or series of such acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

Imminent risk is limited to:

- ✓ a child under 18 years of age;
- ✓ nonaccidental serious physical injury as defined in the CPSL;
- ✓ sexual abuse or sexual exploitation as defined in the CPSL;
- ✓ incidents which occur within two years of the date of the report; and
- ✓ perpetrators as defined in the CPSL.

To substantiate imminent risk of serious physical injury or sexual abuse/exploitation:

- ✓ A specific act or failure to act must be documented;
- ✓ The act or failure to act must result in risk of abuse; i.e., be supported by substantial evidence that serious physical injury or sexual abuse/exploitation would have occurred;
- ✓ The risk of abuse must have been imminent;

For risk of *serious physical injury*, "imminent" means during and/or immediately following the act or failure to act.

For risk of *sexual abuse/exploitation*, "imminent" means the specific time frame during which the child was exposed to risk of such abuse.

For an alleged act of imminent risk of serious injury:

- ✓ There must be substantial evidence that, but by happenstance, the intervention of a third party or actions by the alleged victim, serious injury would have occurred; and
- ✓ The injury would have been serious; i.e., it would have:
 - caused the child severe pain; or
 - significantly impaired the child's physical functioning.

For alleged failure to act suggesting imminent risk of serious physical injury, there must be substantial evidence that:

- ✓ The alleged perpetrator had known or should have known that the failure to act created risk of serious injury to the child; and
- ✓ The alleged perpetrator failed to exercise reasonable judgement in keeping the child out of a situation which created imminent risk of serious physical injury.

For alleged imminent risk of sexual abuse or sexual exploitation:

- ✓ There must be substantial evidence that an action on the part of the alleged perpetrator placed the child at imminent risk of sexual abuse/exploitation; or
- ✓ There must be substantial evidence that the alleged perpetrator had known or should have known of the risk of sexual abuse and failed to exercise reasonable judgement in preventing such risk.

To substantiate imminent risk of serious physical injury or sexual abuse/exploitation based on a "series of such acts or failures to act":

- ✓ It must be established that each act or failure to act alone would not constitute imminent risk of serious injury or sexual abuse/exploitation; and
- ✓ There must be substantial evidence that an accumulation of acts or omissions, if continued or repeated, made/make it more likely than not that the child was/is at imminent risk of serious physical injury or sexual abuse/exploitation.

To assess the existence of imminent risk of serious physical injury or sexual abuse/exploitation the following considerations apply:

1. *Are the conclusions drawn from an alleged incident based on the factual circumstances of the case and substantial evidence as indicated by:*
 - ◆ interviews with the persons involved in the incident;
 - ◆ witnesses to the incident;
 - ◆ physical evidence left as a result of an incident;
 - ◆ expert assessment, where appropriate;
 - ◆ a history of violence;
 - ◆ a history of bad judgement;
 - ◆ prior incidents;
 - ◆ involvement of law enforcement; and
 - ◆ supervisory and, if possible, multidisciplinary team concurrence.
2. *Do the social and familial circumstances surrounding the incident support the conclusion that the alleged perpetrator attempted the abuse or allowed risk of abuse to occur?*
3. *Has the investigation produced documented evidence to substantiate the items in above; e.g. photographs, evaluations, etc.?*