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**CHILDREN:
Meaning of "Abuse" and "Neglect"
in Abused and Neglected Child
Reporting Act**

**Mary Lee Leahy
Director
Department of Children
and Family Services
623 E. Adams
Springfield, IL 62706**

Dear Mrs. Leahy:

**I have your letter which poses the following
question:**

**Do the definitions of child "abuse" and
"neglect" in the Illinois Abused and Neglected
Child Reporting Act include "threatened harm"
as that term is used in the Federal regulations
implementing the Federal Child Abuse Prevention
and Treatment Act?**

**The Child Abuse Prevention and Treatment Act authorizes
the secretary of Health Education and Welfare to promulgate**

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regulations governing programs to assist States in preventing and treating child abuse and neglect. (42 U.S.C. 5102 and 5103.) The regulations promulgated by the secretary define "child abuse and neglect" as follows:

"'Child abuse and neglect' means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare."
(45 C.F.R. sec. 1340.1-2(b).)

The Federal regulations describe conditions that produce harm or threatened harm to a child's health and welfare as follows:

"'Harm or threatened harm to a child's health or welfare' can occur through: Non-accidental physical or mental injury; sexual abuse, as defined by State law; or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter." (45 C.F.R. sec. 1340.1-2(b)(1).)

The child abuse and neglect programs that the Federal government assists the States in developing are thus directed at preventing and treating harm or threatened harm caused by non-accidental physical or mental injury, sexual abuse, or negligent treatment or maltreatment.

The Abused and Neglected Child Reporting Act

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(P.A. 79-65) is concerned with the same type of harm described in the Federal regulations. The Act outlines procedures for reporting child abuse and neglect. Section 3 of the Act defines "abuse" as non-accidental physical or mental injury or sexual abuse. Section 3 reads in pertinent part:

"'Abuse' means any physical injury, sexual abuse or mental injury inflicted on a child other than by accidental means by a person responsible for the child's health or welfare."

The definition of "neglect" is also in section 3 of the Act. This definition of "neglect" is broad enough to encompass negligent treatment or maltreatment of a child by those responsible for the child's care and maintenance. The definition of "neglect" reads as follows:

"'Neglect' means a failure to provide, by those responsible for the care and maintenance of the child, the proper and necessary support, education as required by law, or medical or other remedial care recognized under State law, other care necessary for the child's well-being; or abandonment by his parent, guardian or custodian; or subjecting a child to an environment injurious to the child's welfare."

The definitions of child "abuse" and "neglect" in the Abused and Neglected Child Reporting Act are substantially the same as the definition of "child abuse and neglect" in the Federal

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regulations. Under the Federal regulations "child abuse and neglect" means harm or threatened harm, and harm or threatened harm can be caused by non-accidental physical or mental injury, sexual abuse, or negligent treatment or maltreatment. The definitions of "abuse" and "neglect" in the Abused and Neglected Child Reporting Act expressly include the conditions that are described as the causes of harm or threatened harm in the Federal regulations. It is clear that the Illinois criteria for abuse and neglect are the same as the description in the Federal regulations concerning how harm or threatened harm can occur. It is therefore my opinion that the definitions of "abuse" and "neglect" in the Illinois Act include "threatened harm" as that term is used in the Federal regulations.

Very truly yours,

A T T O R N E Y G E N E R A L