

REFERENCE TITLE: **neglected children; definition**

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

# **SB 1050**

Introduced by  
Senator Townsend

AN ACT

AMENDING SECTION 8-201, ARIZONA REVISED STATUTES; RELATING TO NEGLECTED CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-201, Arizona Revised Statutes, is amended to  
3 read:

4 8-201. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Abandoned" means the failure of the parent to provide  
7 reasonable support and to maintain regular contact with the child,  
8 including providing normal supervision. Abandoned includes a judicial  
9 finding that a parent has made only minimal efforts to support and  
10 communicate with the child. Failure to maintain a normal parental  
11 relationship with the child without just cause for a period of six months  
12 constitutes prima facie evidence of abandonment.

13 2. "Abuse" means the infliction or allowing of physical injury,  
14 impairment of bodily function or disfigurement or the infliction of or  
15 allowing another person to cause serious emotional damage as evidenced by  
16 severe anxiety, depression, withdrawal or untoward aggressive behavior and  
17 which emotional damage is diagnosed by a medical doctor or psychologist  
18 and is caused by the acts or omissions of an individual who has the care,  
19 custody and control of a child. Abuse includes:

20 (a) Inflicting or allowing sexual abuse pursuant to section  
21 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual  
22 assault pursuant to section 13-1406, molestation of a child pursuant to  
23 section 13-1410, commercial sexual exploitation of a minor pursuant to  
24 section 13-3552, sexual exploitation of a minor pursuant to section  
25 13-3553, incest pursuant to section 13-3608 or child sex trafficking  
26 pursuant to section 13-3212.

27 (b) Physical injury that results from ~~permitting~~ ALLOWING a child  
28 to enter or remain in any structure or vehicle in which volatile, toxic or  
29 flammable chemicals are found or equipment is possessed by any person for  
30 the purpose of manufacturing a dangerous drug as defined in section  
31 13-3401.

32 (c) Unreasonable confinement of a child.

33 3. "Adult" means a person who is eighteen years of age or older.

34 4. "Adult court" means the appropriate justice court, municipal  
35 court or criminal division of the superior court that has jurisdiction to  
36 hear proceedings concerning offenses committed by juveniles as provided in  
37 sections 8-327 and 13-501.

38 5. "Award" or "commit" means to assign legal custody.

39 6. "Child", "youth" or "juvenile" means an individual who is under  
40 ~~the age of~~ eighteen years OF AGE.

41 7. "Complaint" means a written statement of the essential facts  
42 constituting a public offense that is any of the following:

43 (a) Made on an oath before a judge or commissioner of the superior  
44 court or an authorized juvenile hearing officer.

45 (b) Made pursuant to section 13-3903.

1 (c) Accompanied by an affidavit of a law enforcement officer or  
2 employee that swears on information and belief to the accuracy of the  
3 complaint pursuant to section 13-4261.

4 8. "Criminal conduct allegation" means an allegation of conduct by  
5 a parent, guardian or custodian of a child or an adult member of the  
6 victim's household that, if true, would constitute any of the following:

7 (a) A violation of section 13-3623 involving child abuse.

8 (b) A felony offense that constitutes domestic violence as defined  
9 in section 13-3601.

10 (c) A violation of section 13-1404 or 13-1406 involving a minor.

11 (d) A violation of section 13-1405, 13-1410 or 13-1417.

12 (e) Any other act of abuse that is classified as a felony.

13 (f) An offense that constitutes domestic violence as defined in  
14 section 13-3601 and that involves a minor who is a victim of or was in  
15 imminent danger during the domestic violence.

16 9. "Custodian" means a person, other than a parent or legal  
17 guardian, who stands in loco parentis to the child or a person to whom  
18 legal custody of the child has been given by order of the juvenile court.

19 10. "DCS report" means a communication received by the centralized  
20 intake hotline that alleges child abuse or neglect and that meets the  
21 criteria for a report as prescribed in section 8-455.

22 11. "Delinquency hearing" means a proceeding in the juvenile court  
23 to determine whether a juvenile has committed a specific delinquent act as  
24 set forth in a petition.

25 12. "Delinquent act" means an act by a juvenile that if committed  
26 by an adult would be a criminal offense or a petty offense, a violation of  
27 any law of this state, or of another state if the act occurred in that  
28 state, or a law of the United States, or a violation of any law that can  
29 only be violated by a minor and that has been designated as a delinquent  
30 offense, or any ordinance of a city, county or political subdivision of  
31 this state defining crime. Delinquent act does not include an offense  
32 under section 13-501, subsection A or B if the offense is filed in adult  
33 court. Any juvenile who is prosecuted as an adult or who is remanded for  
34 prosecution as an adult shall not be adjudicated as a delinquent juvenile  
35 for the same offense.

36 13. "Delinquent juvenile" means a child who is adjudicated to have  
37 committed a delinquent act.

38 14. "Department" means the department of child safety.

39 15. "Dependent child":

40 (a) Means a child who is adjudicated to be:

41 (i) In need of proper and effective parental care and control and  
42 who has no parent or guardian, or one who has no parent or guardian  
43 willing to exercise or capable of exercising such care and control.

44 (ii) Destitute or who is not provided with the necessities of life,  
45 including adequate food, clothing, shelter or medical care.

1 (iii) A child whose home is unfit by reason of abuse, neglect,  
2 cruelty or depravity by a parent, a guardian or any other person having  
3 custody or care of the child.

4 (iv) Under eight years of age and who is found to have committed an  
5 act that would result in adjudication as a delinquent juvenile or  
6 incorrigible child if committed by an older juvenile or child.

7 (v) Incompetent or not restorable to competency and who is alleged  
8 to have committed a serious offense as defined in section 13-706.

9 (b) Does not include a child who in good faith is being furnished  
10 Christian Science treatment by a duly accredited practitioner if none of  
11 the circumstances described in subdivision (a) of this paragraph exists.

12 16. "Detention" means the temporary confinement of a juvenile who  
13 requires secure care in a physically restricting facility that is  
14 completely surrounded by a locked and physically secure barrier with  
15 restricted ingress and egress for the protection of the juvenile or the  
16 community pending court disposition or as a condition of probation.

17 17. "Director" means the director of the department.

18 18. "Health professional" has the same meaning prescribed in  
19 section 32-3201.

20 19. "Incorrigible child" means a child who:

21 (a) Is adjudicated as a child who refuses to obey the reasonable  
22 and proper orders or directions of a parent, guardian or custodian and who  
23 is beyond the control of that person.

24 (b) Is habitually truant from school as defined in section 15-803,  
25 subsection C.

26 (c) Is a runaway from the child's home or parent, guardian or  
27 custodian.

28 (d) Habitually behaves in such a manner as to injure or endanger  
29 the morals or health of self or others.

30 (e) Commits any act constituting an offense that can only be  
31 committed by a minor and that is not designated as a delinquent act.

32 (f) Fails to obey any lawful order of a court of competent  
33 jurisdiction given in a noncriminal action.

34 20. "Independent living program" includes a residential program  
35 with supervision of less than twenty-four hours a day.

36 21. "Juvenile court" means the juvenile division of the superior  
37 court when exercising its jurisdiction over children in any proceeding  
38 relating to delinquency, dependency or incorrigibility.

39 22. "Law enforcement officer" means a peace officer, sheriff,  
40 deputy sheriff, municipal police officer or constable.

41 23. "Medical director of a mental health agency":

42 (a) Means a psychiatrist, or licensed physician experienced in  
43 psychiatric matters, who is designated in writing by the governing body of  
44 the agency as the person in charge of the medical services of the agency,

1 or a psychiatrist designated by the governing body to act for the  
2 director. ~~The term~~

3 (b) Includes the superintendent of the state hospital.

4 24. "Mental health agency" means any private or public facility  
5 that is licensed by this state as a mental health treatment agency, a  
6 psychiatric hospital, a psychiatric unit of a general hospital or a  
7 residential treatment center for emotionally disturbed children and that  
8 uses secure settings or mechanical restraints.

9 25. "Neglect" or "neglected" means:

10 (a) The inability or unwillingness of a parent, guardian or  
11 custodian of a child to provide that child with supervision, food,  
12 clothing, shelter or medical care if that inability or unwillingness  
13 causes ~~unreasonable~~ SUBSTANTIAL risk of harm to the child's health or  
14 welfare, except if the inability of a parent, guardian or custodian to  
15 provide services to meet the needs of a child with a disability or chronic  
16 illness is solely the result of the unavailability of reasonable services.

17 (b) ~~Permitting~~ ALLOWING a child to enter or remain in any structure  
18 or vehicle in which volatile, toxic or flammable chemicals are found or  
19 equipment is possessed by any person ~~for the purposes~~ WITH THE INTENT AND  
20 FOR THE PURPOSE of manufacturing a dangerous drug as defined in section  
21 13-3401.

22 (c) A determination by a health professional that a newborn infant  
23 was exposed prenatally to a drug or substance listed in section 13-3401  
24 and that this exposure was not the result of a medical treatment  
25 administered to the mother or the newborn infant by a health professional.  
26 This subdivision does not expand a health professional's duty to report  
27 neglect based on prenatal exposure to a drug or substance listed in  
28 section 13-3401 beyond the requirements prescribed pursuant to section  
29 13-3620, subsection E. The determination by the health professional shall  
30 be based on one or more of the following:

31 (i) Clinical indicators in the prenatal period including maternal  
32 and newborn presentation.

33 (ii) History of substance use or abuse.

34 (iii) Medical history.

35 (iv) Results of a toxicology or other laboratory test on the mother  
36 or the newborn infant.

37 (d) Diagnosis by a health professional of an infant under one year  
38 of age with clinical findings consistent with fetal alcohol syndrome or  
39 fetal alcohol effects.

40 (e) Deliberate exposure of a child by a parent, guardian or  
41 custodian to sexual conduct as defined in section 13-3551 or to sexual  
42 contact, oral sexual contact or sexual intercourse as defined in section  
43 13-1401, bestiality as prescribed in section 13-1411 or explicit sexual  
44 materials as defined in section 13-3507.

1 (f) Any of the following acts committed by the child's parent,  
2 guardian or custodian with reckless disregard as to whether the child is  
3 physically present:

4 (i) Sexual contact as defined in section 13-1401.

5 (ii) Oral sexual contact as defined in section 13-1401.

6 (iii) Sexual intercourse as defined in section 13-1401.

7 (iv) Bestiality as prescribed in section 13-1411.

8 26. "Newborn infant" means a child who is under thirty days of age.

9 27. "Petition" means a written statement of the essential facts  
10 that allege delinquency, incorrigibility or dependency.

11 28. "Prevention" means the creation of conditions, opportunities  
12 and experiences that encourage and develop healthy, self-sufficient  
13 children and that occur before the onset of problems.

14 29. "Protective supervision" means supervision that is ordered by  
15 the juvenile court of children who are found to be dependent or  
16 incorrigible.

17 30. "Qualified young adult" means a former dependent child who is  
18 at least eighteen years of age and not over twenty-one years of age, who  
19 meets the criteria for an extended foster care program pursuant to section  
20 8-521.02 and who signs a voluntary agreement to participate in the  
21 program.

22 31. "Referral" means a report that is submitted to the juvenile  
23 court and that alleges that a child is dependent or incorrigible or that a  
24 juvenile has committed a delinquent or criminal act.

25 32. "Secure care" means confinement in a facility that is  
26 completely surrounded by a locked and physically secure barrier with  
27 restricted ingress and egress.

28 33. "Serious emotional injury" means an injury that is diagnosed by  
29 a medical doctor or a psychologist and that does any one or a combination  
30 of the following:

31 (a) Seriously impairs mental faculties.

32 (b) Causes serious anxiety, depression, withdrawal or social  
33 dysfunction behavior to the extent that the child suffers dysfunction that  
34 requires treatment.

35 (c) Is the result of sexual abuse pursuant to section 13-1404,  
36 sexual conduct with a minor pursuant to section 13-1405, sexual assault  
37 pursuant to section 13-1406, molestation of a child pursuant to section  
38 13-1410, child sex trafficking pursuant to section 13-3212, commercial  
39 sexual exploitation of a minor pursuant to section 13-3552, sexual  
40 exploitation of a minor pursuant to section 13-3553 or incest pursuant to  
41 section 13-3608.

42 34. "Serious physical injury" means an injury that is diagnosed by  
43 a medical doctor and that does any one or a combination of the following:

44 (a) Creates a reasonable risk of death.

45 (b) Causes serious or permanent disfigurement.

1 (c) Causes significant physical pain.

2 (d) Causes serious impairment of health.

3 (e) Causes the loss or protracted impairment of an organ or limb.

4 (f) Is the result of sexual abuse pursuant to section 13-1404,  
5 sexual conduct with a minor pursuant to section 13-1405, sexual assault  
6 pursuant to section 13-1406, molestation of a child pursuant to section  
7 13-1410, child sex trafficking pursuant to section 13-3212, commercial  
8 sexual exploitation of a minor pursuant to section 13-3552, sexual  
9 exploitation of a minor pursuant to section 13-3553 or incest pursuant to  
10 section 13-3608.

11 35. "Shelter care" means the temporary care of a child in any  
12 public or private facility or home that is licensed by this state and that  
13 offers a physically nonsecure environment that is characterized by the  
14 absence of physically restricting construction or hardware and that  
15 provides the child access to the surrounding community.

16 36. "Young adult administrative review" means an administrative  
17 review of a voluntary extended foster care case plan with the qualified  
18 young adult, the department's case specialist or designee, an independent  
19 party who is not responsible for the case management of or the delivery of  
20 services to the qualified young adult and any other individual the young  
21 adult invites.