

REFERENCE TITLE: DCS; investigations; interviews; recording

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2402

Introduced by
Representative Gress

AN ACT

AMENDING SECTION 8-456, ARIZONA REVISED STATUTES; RELATING TO THE
DEPARTMENT OF CHILD SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-456, Arizona Revised Statutes, is amended to
3 read:

4 8-456. Investigative function; training; voice stress
5 analysis; recordings; criminal offenses; definitions

6 A. The department shall train all investigators in forensic
7 interviewing and processes and the protocols established pursuant to
8 section 8-817. The training must include:

9 1. An evidence-informed safety assessment model to assess the
10 safety of a child.

11 2. The duty to protect the legal and due process rights of children
12 and families from the time of the initial contact through case closure.

13 3. Instruction on a child's rights as a crime victim and
14 instruction on the legal rights of parents.

15 4. A checklist or other mechanism to assist the investigator in
16 giving consideration to the relevant factors in each investigation.

17 B. The office of child welfare investigations shall investigate DCS
18 reports that contain a criminal conduct allegation as provided in sections
19 8-471 and 8-817.

20 C. The department shall use an evidence-informed safety assessment
21 model to assess the safety of a child.

22 D. After receiving a DCS report from the centralized intake hotline
23 pursuant to section 8-455, an investigator shall do all of the following:

24 1. Make a prompt and thorough investigation. An investigation must
25 evaluate and determine the nature, extent and cause of any condition
26 created by the parents, guardian or custodian or an adult member of the
27 victim's household that would tend to support or refute the allegation
28 that the child is a victim of abuse or neglect and determine the name, age
29 and condition of other children in the home. If an investigator has
30 sufficient information to determine that the child is not a victim of
31 abuse or neglect, the investigator may close the investigation.

32 2. If required by section 8-821 and subject to section 8-471, take
33 a child into temporary custody. Law enforcement officers shall cooperate
34 with the department to remove a child from the custody of the child's
35 parents, guardian or custodian when necessary.

36 E. The department may not use covert voice stress analysis during
37 an investigation to determine if abuse or neglect exists. The department
38 may not use overt voice stress analysis during an investigation unless the
39 person on whom the analysis is used gives informed consent. Results of
40 computer voice stress analysis are not admissible in court.

41 F. After an investigation, an investigator shall:

42 1. Determine whether any child is in need of child safety services
43 consistent with the evaluation and determination made pursuant to
44 subsection D of this section.

1 2. If appropriate pursuant to section 8-846, offer to the family of
2 any child who is found to be a child in need of child safety services
3 those services that are designed to correct unresolved problems that would
4 indicate a reason to adjudicate the child dependent.

5 3. Submit a written report of the investigator's investigation to:

6 (a) The department's case management information system within a
7 reasonable amount of time that does not exceed forty-five days after
8 receipt of the DCS report except as provided in section 8-811. If the
9 investigation involves allegations regarding a child who at the time of
10 the alleged incident was in the custody of a child welfare agency licensed
11 by the department under this title, a copy of the report and any
12 additional investigative or other related reports must be provided to the
13 board of directors of the agency or to the administrative head of the
14 agency unless the incident is alleged to have been committed by the
15 person. The department shall excise all information with regard to the
16 identity of the source of the reports.

17 (b) The appropriate court forty-eight hours before a dependency
18 hearing pursuant to a petition of dependency or within twenty-one days
19 after a petition of dependency is filed, whichever is earlier. On receipt
20 of the report the court shall make the report available to all parties and
21 counsel.

22 4. Accept a child into voluntary placement pursuant to section
23 8-806.

24 5. Identify, promptly obtain and abide by court orders that
25 restrict or deny custody, visitation or contact by a parent or other
26 person in the home with the child and notify appropriate personnel in the
27 department to preclude violations of a court order in the provision of any
28 services.

29 G. In conducting an investigation pursuant to this section, if the
30 investigator is made aware that an allegation of abuse or neglect may also
31 have been made in another state, the investigator shall contact the
32 appropriate agency in that state to attempt to determine the outcome of
33 any investigation of that allegation.

34 H. If an investigation indicates a reason to believe that a
35 criminal offense has been committed, the investigator shall immediately
36 provide the information to the appropriate law enforcement agency and the
37 office of child welfare investigations, unless the information was
38 previously provided pursuant to section 8-455.

39 I. THE DEPARTMENT SHALL AUDIOTAPE OR VIDEOTAPE ANY INTERVIEW THAT
40 THE DEPARTMENT CONDUCTS WITH A CHILD PURSUANT TO THIS SECTION UNLESS
41 EITHER OF THE FOLLOWING OCCURS:

42 1. THE RECORDING EQUIPMENT MALFUNCTIONS AND THE MALFUNCTION IS NOT
43 THE RESULT OF A FAILURE TO MAINTAIN THE EQUIPMENT OR PROVIDE ADEQUATE
44 SUPPLIES FOR THE EQUIPMENT.

1 2. DUE TO CIRCUMSTANCES THAT COULD NOT HAVE BEEN REASONABLY
2 FORESEEN BY THE DEPARTMENT, THE DEPARTMENT DOES NOT HAVE THE NECESSARY
3 RECORDING EQUIPMENT.

4 J. A PERSON WHO IS CHARGED WITH A CRIMINAL OFFENSE INVOLVING ABUSE
5 OR NEGLECT OF A CHILD DOES NOT HAVE STANDING TO OBJECT TO THE DEPARTMENT'S
6 FAILURE TO COMPLY WITH SUBSECTION I OF THIS SECTION. THE DEPARTMENT'S
7 FAILURE TO COMPLY WITH SUBSECTION I OF THIS SECTION IS NOT GROUNDS FOR
8 PRECLUDING STATEMENTS MADE BY A CHILD DURING AN INTERVIEW THAT ARE
9 OTHERWISE ADMISSIBLE IN A CRIMINAL OR DEPENDENCY PROCEEDING.

10 ~~I.~~ K. Except in judicial proceedings, a parent or legal guardian
11 may not be prohibited from recording conversations with the department
12 pursuant to this section.

13 ~~J.~~ L. Before implementing a new safety assessment model, the
14 department shall present the proposed change to the joint legislative
15 oversight committee on the department of child safety established by
16 section 41-1292 or to the committees with jurisdiction over the department
17 in the senate and house of representatives.

18 ~~K.~~ M. For the purposes of this section:

19 1. "Evidence-informed" means based on the best available child
20 welfare research and practice information.

21 2. "Investigator" means an employee of the department who
22 investigates allegations of abuse or neglect pursuant to a DCS report.