

Senate Engrossed

DCS; group homes; investigations

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1067

AN ACT

AMENDING SECTIONS 8-201, 8-455, 8-456, 8-803 AND 8-811, ARIZONA REVISED
STATUTES; RELATING TO CHILD WELFARE.

(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":
14 (a) Means the infliction or allowing of physical injury, impairment
15 of bodily function or disfigurement or the infliction of or allowing
16 another person to cause serious emotional damage as evidenced by severe
17 anxiety, depression, withdrawal or untoward aggressive behavior and which
18 emotional damage is diagnosed by a medical doctor or psychologist and is
19 caused by the acts or omissions of an individual who has the care, custody
20 and control of a child, **INCLUDING AN EMPLOYEE OF A CHILD WELFARE AGENCY**
21 **WHERE A CHILD IS PLACED THAT IS LICENSED BY AND CONTRACTED WITH THE**
22 **DEPARTMENT.** ~~Abuse~~
23 (b) Includes:
24 ~~(a)~~ (i) Inflicting or allowing sexual abuse pursuant to section
25 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual
26 assault pursuant to section 13-1406, molestation of a child pursuant to
27 section 13-1410, commercial sexual exploitation of a minor pursuant to
28 section 13-3552, sexual exploitation of a minor pursuant to section
29 13-3553, incest pursuant to section 13-3608 or child sex trafficking
30 pursuant to section 13-3212.
31 ~~(b)~~ (ii) Physical injury that results from allowing a child to
32 enter or remain in any structure or vehicle in which volatile, toxic or
33 flammable chemicals are found or equipment is possessed by any person for
34 the purpose of manufacturing a dangerous drug as defined in section
35 13-3401.
36 ~~(c)~~ (iii) Unreasonable confinement of a child.
37 3. "Adult" means a person who is eighteen years of age or older.
38 4. "Adult court" means the appropriate justice court, municipal
39 court or criminal division of the superior court that has jurisdiction to
40 hear proceedings concerning offenses committed by juveniles as provided in
41 sections 8-327 and 13-501.
42 5. "Award" or "commit" means to assign legal custody.
43 6. "Child", "youth" or "juvenile" means an individual who is under
44 eighteen years of age.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 15. "Dependent child":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (a) Means a psychiatrist, or licensed physician experienced in
5 psychiatric matters, who is designated in writing by the governing body of
6 the agency as the person in charge of the medical services of the agency,
7 or a psychiatrist designated by the governing body to act for the
8 director.

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

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

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

16 (a) The inability or unwillingness of a parent, guardian or
17 custodian of a child to provide that child with supervision, food,
18 clothing, shelter or medical care if that inability or unwillingness
19 causes substantial risk of harm to the child's health or welfare, except
20 if the inability of a parent, guardian or custodian to provide services to
21 meet the needs of a child with a disability or chronic illness is solely
22 the result of the unavailability of reasonable services.

23 (b) Allowing a child to enter or remain in any structure or vehicle
24 in which volatile, toxic or flammable chemicals are found or equipment is
25 possessed by any person with the intent and for the purpose of
26 manufacturing a dangerous drug as defined in section 13-3401.

27 (c) A determination by a health professional that a newborn infant
28 was exposed prenatally to a drug or substance listed in section 13-3401
29 and that this exposure was not the result of a medical treatment
30 administered to the mother or the newborn infant by a health professional.
31 This subdivision does not expand a health professional's duty to report
32 neglect based on prenatal exposure to a drug or substance listed in
33 section 13-3401 beyond the requirements prescribed pursuant to section
34 13-3620, subsection E. The determination by the health professional shall
35 be based on one or more of the following:

36 (i) Clinical indicators in the prenatal period including maternal
37 and newborn presentation.

38 (ii) History of substance use or abuse.

39 (iii) Medical history.

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

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

1 (e) Deliberate exposure of a child by a parent, guardian or
2 custodian to sexual conduct as defined in section 13-3551 or to sexual
3 contact, oral sexual contact or sexual intercourse as defined in section
4 13-1401, bestiality as prescribed in section 13-1411 or explicit sexual
5 materials as defined in section 13-3507.

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

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

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

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

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

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

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

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

19 29. "Protective supervision" means supervision that is ordered by
20 the juvenile court of children who are found to be dependent or
21 incorrigible.

22 30. "Qualified young adult" means a former dependent child who is
23 at least eighteen years of age and not over twenty-one years of age, who
24 meets the criteria for an extended foster care program pursuant to section
25 8-521.02 and who signs a voluntary agreement to participate in the
26 program.

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

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

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

36 (a) Seriously impairs mental faculties.

37 (b) Causes serious anxiety, depression, withdrawal or social
38 dysfunction behavior to the extent that the child suffers dysfunction that
39 requires treatment.

40 (c) Is the result of sexual abuse pursuant to section 13-1404,
41 sexual conduct with a minor pursuant to section 13-1405, sexual assault
42 pursuant to section 13-1406, molestation of a child pursuant to section
43 13-1410, child sex trafficking pursuant to section 13-3212, commercial
44 sexual exploitation of a minor pursuant to section 13-3552, sexual

1 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
2 section 13-3608.

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

5 (a) Creates a reasonable risk of death.

6 (b) Causes serious or permanent disfigurement.

7 (c) Causes significant physical pain.

8 (d) Causes serious impairment of health.

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

10 (f) Is the result of sexual abuse pursuant to section 13-1404,
11 sexual conduct with a minor pursuant to section 13-1405, sexual assault
12 pursuant to section 13-1406, molestation of a child pursuant to section
13 13-1410, child sex trafficking pursuant to section 13-3212, commercial
14 sexual exploitation of a minor pursuant to section 13-3552, sexual
15 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
16 section 13-3608.

17 35. "Shelter care" means the temporary care of a child in any
18 public or private facility or home that is licensed by this state and that
19 offers a physically nonsecure environment that is characterized by the
20 absence of physically restricting construction or hardware and that
21 provides the child access to the surrounding community.

22 36. "Young adult administrative review" means an administrative
23 review of a voluntary extended foster care case plan with the qualified
24 young adult, the department's case specialist or designee, an independent
25 party who is not responsible for the case management of or the delivery of
26 services to the qualified young adult and any other individual the young
27 adult invites.

28 Sec. 2. Section 8-455, Arizona Revised Statutes, is amended to
29 read:

30 8-455. Centralized intake hotline; purposes; report of
31 possible crime; DCS report; risk assessment tools;
32 access to information; public awareness; definitions

33 A. The department shall operate and maintain a centralized intake
34 hotline to protect children by receiving at all times communications
35 concerning suspected abuse or neglect. If a person communicates suspected
36 abuse or neglect to a department employee other than through the hotline,
37 the employee shall refer the person or communication to the hotline.

38 B. The hotline is the first step in the safety assessment and
39 investigation process and must be operated to:

40 1. Record communications made concerning suspected abuse or
41 neglect.

42 2. Immediately take steps necessary to identify and locate prior
43 communications and DCS reports related to the current communication using
44 the department's data system and the central registry system of this
45 state.

1 3. Quickly and efficiently provide information to a law enforcement
2 agency or prepare a DCS report as required by this section.

3 4. Determine the proper initial priority level of investigation
4 based on the report screening assessment and direct the DCS report to the
5 appropriate part of the department based on this determination.

6 C. If a communication provides a reason to believe that a criminal
7 offense has been committed and the communication does not meet the
8 criteria for a DCS report, the hotline worker shall immediately provide
9 the information to the appropriate law enforcement agency.

10 D. A hotline worker shall prepare a DCS report if the identity or
11 current location of the child victim, the child's family or the person
12 suspected of abuse or neglect is known or can be reasonably ascertained
13 and all of the following are alleged:

14 1. The suspected conduct would constitute abuse or neglect.

15 2. The suspected victim of the conduct is under eighteen years of
16 age.

17 3. The suspected victim of the conduct is a resident of or present
18 in this state.

19 4. The person suspected of committing the abuse or neglect is the
20 parent, guardian or custodian of the victim or an adult member of the
21 victim's household.

22 E. A HOTLINE WORKER SHALL PREPARE A DCS REPORT IF THE IDENTITY OF
23 THE PERSON WHO IS SUSPECTED OF ABUSE IS AN EMPLOYEE OF A CHILD WELFARE
24 AGENCY AND BOTH OF THE FOLLOWING APPLY:

25 1. THE CHILD VICTIM IS PLACED WITH THE AGENCY.

26 2. THE AGENCY IS LICENSED BY AND CONTRACTED WITH THE DEPARTMENT.

27 ~~F.~~ F. Except for criminal conduct allegations, the department is
28 not required to prepare a DCS report if all of the following apply:

29 1. The suspected conduct occurred more than three years before the
30 communication to the hotline.

31 2. There is no information or indication that a child is currently
32 being abused or neglected.

33 ~~F.~~ G. Investigations of DCS reports shall be conducted as provided
34 in section 8-456 except for investigations containing allegations of
35 criminal conduct, which shall be conducted as provided in section 8-471.

36 ~~G.~~ H. The department is not required to prepare a DCS report
37 concerning alleged abuse or neglect if the alleged act or acts occurred in
38 a foreign country and the child is in the custody of the federal
39 government.

40 ~~H.~~ I. The department shall develop and train hotline workers to
41 use uniform risk assessment tools to determine:

42 1. Whether the suspected conduct constitutes abuse or neglect and
43 the severity of the suspected abuse or neglect.

1 2. Whether the suspected abuse or neglect involves criminal
2 conduct, even if the communication does not result in the preparation of a
3 DCS report.

4 3. The appropriate investigative track for referral based on the
5 risk to the child's safety.

6 ~~I.~~ J. A DCS report must include, if available, all of the
7 following:

8 1. The name, address or contact information for the person making
9 the communication.

10 2. The name, address and other location or contact information for
11 the parent, guardian or custodian of the child or other adult member of
12 the child's household who is suspected of committing the abuse or neglect.

13 3. THE NAME, ADDRESS AND OTHER LOCATION OR CONTACT INFORMATION OF
14 AN EMPLOYEE OF A CHILD WELFARE AGENCY WHO IS SUSPECTED OF COMMITTING ABUSE
15 IF BOTH OF THE FOLLOWING APPLY:

16 (a) THE CHILD VICTIM IS PLACED WITH THE AGENCY.

17 (b) THE AGENCY IS LICENSED BY AND CONTRACTED WITH THE DEPARTMENT.

18 ~~S.~~ 4. The name, address and other location or contact information
19 for the child.

20 ~~T.~~ 5. The nature and extent of the indications of the child's
21 abuse or neglect, including any indication of physical injury.

22 ~~U.~~ 6. Any information regarding possible prior abuse or neglect,
23 including reference to any communication or DCS report involving the
24 child, the child's siblings or the person suspected of committing the
25 abuse or neglect.

26 ~~V.~~ K. Information gathered through the hotline must be made
27 available to an employee of the department in order to perform the
28 employee's duties. The office of child welfare investigations and the
29 inspections bureau must have immediate access to all records of the
30 hotline.

31 ~~W.~~ L. A representative of the:

32 1. Office of child welfare investigations must be embedded in the
33 hotline to carry out the purposes of section 8-471.

34 2. Inspections bureau must be embedded in the hotline to carry out
35 the purposes of section 8-458.

36 ~~X.~~ M. The department shall publicize the availability and the
37 purposes of the centralized intake hotline.

38 ~~Y.~~ N. For the purposes of this section:

39 1. "Centralized intake hotline" means the system developed pursuant
40 to this section regardless of the communication methods or technologies
41 used to implement the system.

42 2. "Criminal offense" means an allegation of conduct against a
43 child by a person other than a parent, guardian or custodian of the child
44 victim or another adult member of the child's household that, if true,
45 would constitute a felony offense.

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

3 8-456. Investigative function; training; voice stress
4 analysis; recordings; criminal offenses; definitions

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

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

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

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

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

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

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

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

23 1. Make a prompt and thorough investigation. An investigation must
24 evaluate and determine the nature, extent and cause of any condition
25 created by the parents, guardian or custodian, ~~or~~ an adult member of the
26 victim's household **OR AN EMPLOYEE OF A CHILD WELFARE AGENCY WHERE THE**
27 **CHILD IS PLACED THAT IS LICENSED BY AND CONTRACTED WITH THE DEPARTMENT**
28 that would tend to support or refute the allegation that the child is a
29 victim of abuse or neglect and determine the name, age and condition of
30 other children in the home. If an investigator has sufficient information
31 to determine that the child is not a victim of abuse or neglect, the
32 investigator may close the investigation.

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

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

42 F. After an investigation, an investigator shall:

43 1. Determine whether any child is in need of child safety services
44 consistent with the evaluation and determination made pursuant to
45 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. Except in judicial proceedings, a parent or legal guardian may
40 not be prohibited from recording conversations with the department
41 pursuant to this section.

42 J. Before implementing a new safety assessment model, the
43 department shall present the proposed change to the joint legislative
44 oversight committee on the department of child safety established by

1 section 41-1292 or to the committees with jurisdiction over the department
2 in the senate and house of representatives.

3 K. For the purposes of this section:

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

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

8 Sec. 4. Section 8-803, Arizona Revised Statutes, is amended to
9 read:

10 8-803. Limitation of authority; duty to inform

11 A. On initial contact with a parent, guardian or custodian OR AN
12 EMPLOYEE OF A CHILD WELFARE AGENCY WHERE A CHILD IS PLACED THAT IS
13 LICENSED BY AND CONTRACTED WITH THE DEPARTMENT WHO IS under investigation
14 pursuant to this article, a child safety worker shall:

15 1. Inform the family OR EMPLOYEE, both verbally and in writing,
16 making reasonable efforts to receive written acknowledgement from the
17 parent, guardian or custodian, of receipt of all of the following
18 information:

19 (a) That the family OR EMPLOYEE is under investigation by the
20 department.

21 (b) The specific complaint or allegation made against that person.

22 (c) That the worker has no legal authority to compel the family OR
23 EMPLOYEE to cooperate with the investigation or to receive child safety
24 services offered pursuant to the investigation.

25 (d) That absent a court order, the family may deny the worker entry
26 into the family's home.

27 (e) That the family OR EMPLOYEE has the right to seek the advice of
28 an attorney and to have an attorney present when questioned by a worker.

29 (f) That anything the person says or writes may be used in a court
30 proceeding.

31 (g) That the family OR EMPLOYEE may refuse to do any of the
32 following:

33 (i) Sign a release of information document.

34 (ii) Consent to take a drug or alcohol test.

35 (iii) Submit to a mental health evaluation.

36 (h) The worker's authority to petition the juvenile court for a
37 determination that a child is dependent.

38 (i) The person's right to file a complaint with the
39 ombudsman-citizens aide pursuant to section 41-1376. The worker shall
40 provide the telephone number and email address of the ombudsman-citizens
41 aide.

42 (j) The person's right to appeal determinations made by the
43 department.

44 (k) Information outlining parental rights under the laws of the
45 state, IF APPLICABLE.

1 2. Provide information to the family about the investigation and
2 child safety decision-making process, document that this information has
3 been provided and make reasonable efforts to receive written
4 acknowledgement of receipt of this information. If the worker's
5 reasonable efforts to obtain written acknowledgement of receipt of the
6 information are unsuccessful, the worker shall document the reason why
7 efforts to obtain written acknowledgement were unsuccessful.

8 B. The child safety worker shall also inform the person about whom
9 the report was made about that person's right to respond to the
10 allegations either verbally or in writing, including any documentation,
11 and to have this information considered in determining if the child is in
12 need of child safety services. The worker shall tell the person that
13 anything the person says or writes can be used in a court proceeding. If
14 the person makes a verbal response, the worker shall include the response
15 in the written report of the investigation. If the person makes a written
16 response, including any documentation, the worker shall include this
17 response and the documentation in the case file. Information provided in
18 response to the allegations shall be considered during the investigation
19 by the worker. The worker shall maintain the response and documentation
20 in the case file and provide this information to the court before a
21 hearing or trial relating to the dependency petition.

22 C. If the family declines to cooperate with the investigation or to
23 accept or to participate in the offered services, or if the worker
24 otherwise believes that the child should be adjudicated dependent, the
25 worker may file with the juvenile court a petition requesting that the
26 child in need of child safety services be adjudicated dependent.

27 D. Refusal to cooperate in the investigation or to participate in
28 the offered services does not constitute grounds for temporary custody of
29 a child except if there is a clear necessity for temporary custody as
30 provided in section 8-821.

31 Sec. 5. Section 8-811, Arizona Revised Statutes, is amended to
32 read:

33 8-811. Hearing process; definitions

34 A. The department shall notify a person who is alleged to have
35 abused or neglected a child that the department intends to substantiate
36 the allegation in the central registry pursuant to section 8-804 and of
37 that person's right:

- 38 1. To receive a copy of the report containing the allegation.
- 39 2. To a hearing before the entry into the central registry.

40 B. The department shall provide the notice prescribed in subsection
41 A of this section by first class mail or by personal service no more than
42 fourteen days after completion of the investigation.

43 C. A request for a hearing on the proposed finding must be received
44 by the department within twenty days after the mailing or personal service
45 of the notice by the department.

1 D. The department shall not disclose any information related to the
2 investigation of the allegation except as provided in sections 8-456,
3 8-807, 8-807.01 and 13-3620.

4 E. If a request for a hearing is made pursuant to subsection C of
5 this section, the department shall conduct a review before the hearing.
6 The department shall provide an opportunity for the accused person to
7 provide written or verbal information to support the position that the
8 department should not substantiate the allegation. If the department
9 determines that there is no probable cause that the accused person engaged
10 in the alleged conduct, the department shall amend the information or
11 finding in the report and shall notify the person and a hearing shall not
12 be held.

13 F. Notwithstanding section 41-1092.03, the notification prescribed
14 in subsection A of this section shall also state that if the department
15 does not amend the information or finding in the report as prescribed in
16 subsection E of this section within sixty days after it receives the
17 request for a hearing the person has a right to a hearing unless:

18 1. The person is a party in a pending civil, criminal or
19 administrative proceeding in which the allegations of abuse or neglect are
20 at issue.

21 2. The person is a party in a pending juvenile proceeding in which
22 the allegations of abuse or neglect are at issue.

23 3. A court or administrative law judge has made findings as to the
24 alleged abuse or neglect.

25 4. A court has found that a child is dependent or has terminated a
26 parent's rights based on an allegation of abuse or neglect.

27 G. If the court or administrative law judge in a pending proceeding
28 described in subsection F, paragraph 1 or 2 of this section does not make
29 a finding of abuse or neglect and the matter is no longer pending in that
30 forum, the person has a right to a hearing pursuant to subsection F of
31 this section.

32 H. If the court or administrative law judge in a proceeding
33 described in subsection F of this section has made a finding of abuse or
34 neglect, the finding shall be entered into the central registry as a
35 substantiated report.

36 I. If the department does not amend the information or finding in
37 the report as prescribed in subsection E of this section, the department
38 shall notify the office of administrative hearings of the request for a
39 hearing no later than five days after completion of the review. The
40 department shall forward all records, reports and other relevant
41 information with the request for hearing within ten days. The department
42 shall redact the identity of the reporting source before transmitting the
43 information to the office of administrative hearings.

1 J. The office of administrative hearings shall hold a hearing
2 pursuant to title 41, chapter 6, article 10, with the following
3 exceptions:

4 1. A child who is the victim of or a witness to abuse or neglect is
5 not required to testify at the hearing.

6 2. A child's hearsay statement is admissible if the time, content
7 and circumstances of that statement are sufficiently indicative of its
8 reliability.

9 3. The identity of the reporting source of the abuse or neglect
10 shall not be disclosed without the permission of the reporting source.

11 4. The reporting source is not required to testify.

12 5. A written statement from the reporting source may be admitted if
13 the time, content and circumstances of that statement are sufficiently
14 indicative of its reliability.

15 6. If the person requesting the hearing fails to appear, the
16 hearing shall be vacated and a substantiated finding of abuse or neglect
17 shall be entered. On good cause shown, the hearing may be rescheduled if
18 the request is made within fifteen calendar days after the date of the
19 notice vacating the hearing for failure to appear.

20 K. On completion of the presentation of evidence, the
21 administrative law judge shall determine if probable cause exists to
22 sustain the department's finding that the parent, guardian, **EMPLOYEE OF A**
23 **CHILD WELFARE AGENCY WHERE THE CHILD WAS PLACED THAT WAS LICENSED BY AND**
24 **CONTRACTED WITH THE DEPARTMENT AT THE TIME OF THE ABUSE** or custodian
25 abused ~~or neglected~~ the child **OR THE PARENT, GUARDIAN OR CUSTODIAN**
26 **NEGLECTED THE CHILD**. If the administrative law judge determines that
27 probable cause exists to sustain the department's finding of abuse or
28 neglect, the sustained finding shall be entered into the central registry
29 as a substantiated report. If the administrative law judge determines
30 that probable cause does not exist to sustain the department's finding,
31 the administrative law judge shall order the department to amend the
32 information or finding in the report.

33 L. When the department is requested to verify pursuant to section
34 8-807, if the central registry contains a substantiated report about a
35 specific person, the department shall determine if the report was taken
36 after January 1, 1998. If the report was taken after January 1, 1998, the
37 department shall notify the requestor of the substantiated finding. If
38 the report was taken before January 1, 1998, the department shall notify
39 the person of the person's right to request an administrative
40 hearing. The department shall not send this notification if the person
41 was a party in a civil, criminal or administrative proceeding in which the
42 allegations of abuse or neglect were at issue. The provisions of this
43 section shall apply to the person's appeal.

44 M. The department shall provide the parent, guardian or custodian
45 who is the subject of the investigation and the person who reported the

1 suspected child abuse or neglect if that person is the child's parent,
2 guardian or custodian with a copy of the outcome of the investigation at
3 one of the following times:
4 1. If the report is unsubstantiated.
5 2. If probable cause exists that abuse or neglect has occurred but
6 a specific person is not identified as having abused or neglected the
7 child.
8 3. After the time to request a hearing has lapsed pursuant to
9 subsection C of this section without the department receiving a request
10 for a hearing.
11 4. After a final administrative decision has been made pursuant to
12 section 41-1092.08.
13 N. For the purposes of this section:
14 1. "Amend the finding" means to change the finding from
15 substantiated to unsubstantiated.
16 2. "Amend the information" means to change information identifying
17 the accused of having abused or neglected a child.