

REFERENCE TITLE: **child safety**

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

# **SB 1047**

Introduced by  
Senator Gray L

**AN ACT**

**AMENDING SECTIONS 8-201, 8-802, 8-804, 8-811 AND 8-844, ARIZONA REVISED STATUTES; RELATING TO CHILD PROTECTIVE SERVICES.**

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

12 2. "Abuse" means the infliction or allowing of physical injury,  
13 impairment of bodily function or disfigurement or the infliction of or  
14 allowing another person to cause serious emotional damage as evidenced by  
15 severe anxiety, depression, withdrawal or untoward aggressive behavior and  
16 which emotional damage is diagnosed by a medical doctor or psychologist  
17 ~~pursuant to section 8-821~~ and is caused by the acts or omissions of an  
18 individual having care, custody and control of a child. Abuse includes:

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

26 (b) Physical injury to a child that results from abuse as described in  
27 section 13-3623, subsection C.

28 (c) PHYSICAL INJURY THAT RESULTS FROM PERMITTING A CHILD TO ENTER OR  
29 REMAIN IN ANY STRUCTURE OR VEHICLE IN WHICH VOLATILE, TOXIC OR FLAMMABLE  
30 CHEMICALS ARE FOUND OR EQUIPMENT IS POSSESSED BY ANY PERSON FOR THE PURPOSE  
31 OF MANUFACTURING A DANGEROUS DRUG AS DEFINED IN SECTION 13-3401.

32 (d) 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 court  
35 or criminal division of the superior court that has jurisdiction to hear  
36 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 the  
40 age of eighteen years.

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

7 9. "Delinquency hearing" means a proceeding in the juvenile court to  
8 determine whether a juvenile has committed a specific delinquent act as set  
9 forth in a petition.

10 10. "Delinquent act" means an act by a juvenile that if committed by an  
11 adult would be a criminal offense or a petty offense, a violation of any law  
12 of this state, or of another state if the act occurred in that state, or a  
13 law of the United States, or a violation of any law that can only be violated  
14 by a minor and that has been designated as a delinquent offense, or any  
15 ordinance of a city, county or political subdivision of this state defining  
16 crime. Delinquent act does not include an offense under section 13-501,  
17 subsection A or B if the offense is filed in adult court. Any juvenile who  
18 is prosecuted as an adult or who is remanded for prosecution as an adult  
19 shall not be adjudicated as a delinquent juvenile for the same offense.

20 11. "Delinquent juvenile" means a child who is adjudicated to have  
21 committed a delinquent act.

22 12. "Department" means the department of economic security.

23 13. "Dependent child":

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

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

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

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

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

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

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

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

1           15. "HEALTH PROFESSIONAL" HAS THE SAME MEANING PRESCRIBED IN SECTION  
2 32-3201.

3           ~~15-~~ 16. "Incorrigible child" means a child who:

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

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

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

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

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

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

17           ~~16-~~ 17. "Independent living program" includes a residential program  
18 with supervision of less than twenty-four hours a day.

19           ~~17-~~ 18. "Juvenile court" means the juvenile division of the superior  
20 court when exercising its jurisdiction over children in any proceeding  
21 relating to delinquency, dependency or incorrigibility.

22           ~~18-~~ 19. "Law enforcement officer" means a peace officer, sheriff,  
23 deputy sheriff, municipal police officer or constable.

24           ~~19-~~ 20. "Medical director of a mental health agency" means a  
25 psychiatrist, or licensed physician experienced in psychiatric matters, who  
26 is designated in writing by the governing body of the agency as the person in  
27 charge of the medical services of the agency, or a psychiatrist designated by  
28 the governing body to act for the director. The term includes the  
29 superintendent of the state hospital.

30           ~~20-~~ 21. "Mental health agency" means any private or public facility  
31 that is licensed by this state as a mental health treatment agency, a  
32 psychiatric hospital, a psychiatric unit of a general hospital or a  
33 residential treatment center for emotionally disturbed children and that uses  
34 secure settings or mechanical restraints.

35           ~~21-~~ 22. "Neglect" or "neglected" means:

36           (a) The inability or unwillingness of a parent, guardian or custodian  
37 of a child to provide that child with supervision, food, clothing, shelter or  
38 medical care if that inability or unwillingness causes ~~substantial~~  
39 UNREASONABLE risk of harm to the child's health or welfare, except if the  
40 inability of a parent, ~~or~~ guardian OR CUSTODIAN to provide services to meet  
41 the needs of a child with a disability or chronic illness is solely the  
42 result of the unavailability of reasonable services.

43           (b) PERMITTING A CHILD TO ENTER OR REMAIN IN ANY STRUCTURE OR VEHICLE  
44 IN WHICH VOLATILE, TOXIC OR FLAMMABLE CHEMICALS ARE FOUND OR EQUIPMENT IS

1 POSSESSED BY ANY PERSON FOR THE PURPOSES OF MANUFACTURING A DANGEROUS DRUG AS  
2 DEFINED IN SECTION 13-3401.

3 (c) A DETERMINATION BY A HEALTH PROFESSIONAL THAT A NEWBORN INFANT WAS  
4 EXPOSED PRENATALLY TO A DRUG OR SUBSTANCE LISTED IN SECTION 13-3401 AND THAT  
5 THIS EXPOSURE WAS NOT THE RESULT OF A MEDICAL TREATMENT ADMINISTERED TO THE  
6 MOTHER OR THE NEWBORN INFANT BY A HEALTH PROFESSIONAL. THE DETERMINATION BY  
7 THE HEALTH PROFESSIONAL SHALL BE BASED ON ONE OR MORE OF THE FOLLOWING:

8 (i) CLINICAL INDICATORS IN THE PRENATAL PERIOD INCLUDING MATERNAL AND  
9 NEWBORN PRESENTATION.

10 (ii) HISTORY OF SUBSTANCE USE OR ABUSE.

11 (iii) MEDICAL HISTORY.

12 (iv) RESULTS OF A TOXICOLOGY OR OTHER LABORATORY TEST ON THE MOTHER OR  
13 THE NEWBORN INFANT.

14 (d) DIAGNOSIS BY A HEALTH PROFESSIONAL OF AN INFANT UNDER ONE YEAR OF  
15 AGE WITH CLINICAL FINDINGS CONSISTENT WITH FETAL ALCOHOL SYNDROME OR FETAL  
16 ALCOHOL EFFECTS.

17 (e) DELIBERATE EXPOSURE OF A CHILD BY A PARENT, GUARDIAN OR CUSTODIAN  
18 TO SEXUAL CONDUCT AS DEFINED IN SECTION 13-3551 OR TO SEXUAL CONTACT, ORAL  
19 SEXUAL CONTACT OR SEXUAL INTERCOURSE AS DEFINED IN SECTION 13-1401,  
20 BESTIALITY AS PRESCRIBED IN SECTION 13-1411 OR EXPLICIT SEXUAL MATERIALS AS  
21 DEFINED IN SECTION 13-3507.

22 (f) ANY OF THE FOLLOWING ACTS COMMITTED BY THE CHILD'S PARENT,  
23 GUARDIAN OR CUSTODIAN WITH RECKLESS DISREGARD AS TO WHETHER THE CHILD IS  
24 PHYSICALLY PRESENT:

25 (i) SEXUAL CONTACT AS DEFINED IN SECTION 13-1401.

26 (ii) ORAL SEXUAL CONTACT AS DEFINED IN SECTION 13-1401.

27 (iii) SEXUAL INTERCOURSE AS DEFINED IN SECTION 13-1401.

28 (iv) BESTIALITY AS PRESCRIBED IN SECTION 13-1411.

29 23. "NEWBORN INFANT" MEANS A CHILD WHO IS UNDER THIRTY DAYS OF AGE.

30 ~~22-~~ 24. "Petition" means a written statement of the essential facts  
31 that allege delinquency, incorrigibility or dependency.

32 ~~23-~~ 25. "Prevention" means the creation of conditions, opportunities  
33 and experiences that encourage and develop healthy, self-sufficient children  
34 and that occur before the onset of problems.

35 ~~24-~~ 26. "Protective supervision" means supervision that is ordered by  
36 the juvenile court of children who are found to be dependent or incorrigible.

37 ~~25-~~ 27. "Referral" means a report that is submitted to the juvenile  
38 court and that alleges that a child is dependent or incorrigible or that a  
39 juvenile has committed a delinquent or criminal act.

40 ~~26-~~ 28. "Secure care" means confinement in a facility that is  
41 completely surrounded by a locked and physically secure barrier with  
42 restricted ingress and egress.

43 ~~27-~~ 29. "Serious emotional injury" means an injury that is diagnosed  
44 by a medical doctor or a psychologist and that does any one or a combination  
45 of the following:

1 (a) Seriously impairs mental faculties.

2 (b) Causes serious anxiety, depression, withdrawal or social  
3 dysfunction behavior to the extent that the child suffers dysfunction that  
4 requires treatment.

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

11 ~~28-~~ 30. "Serious physical injury" means an injury that is diagnosed by  
12 a medical doctor and that does any one or a combination of the following:

13 (a) Creates a reasonable risk of death.

14 (b) Causes serious or permanent disfigurement.

15 (c) Causes significant physical pain.

16 (d) Causes serious impairment of health.

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

18 (f) Is the result of sexual abuse pursuant to section 13-1404, sexual  
19 conduct with a minor pursuant to section 13-1405, sexual assault pursuant to  
20 section 13-1406, molestation of a child pursuant to section 13-1410, child  
21 prostitution pursuant to section 13-3212, commercial sexual exploitation of a  
22 minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to  
23 section 13-3553 or incest pursuant to section 13-3608.

24 ~~29-~~ 31. "Shelter care" means the temporary care of a child in any  
25 public or private facility or home that is licensed by this state and that  
26 offers a physically nonsecure environment that is characterized by the  
27 absence of physically restricting construction or hardware and that provides  
28 the child access to the surrounding community.

29 Sec. 2. Section 8-802, Arizona Revised Statutes, is amended to read:

30 ~~8-802.~~ Child protective services worker; fingerprint clearance  
31 cards; powers and duties; alteration of files;  
32 violation; classification

33 A. The department of economic security shall employ child protective  
34 services workers. All persons who are employed as child protective services  
35 workers shall have a valid fingerprint clearance card that is issued pursuant  
36 to title 41, chapter 12, article 3.1 or shall apply for a fingerprint  
37 clearance card within seven working days of employment. A child protective  
38 services worker shall certify on forms that are provided by the department of  
39 economic security and that are notarized whether the worker is awaiting trial  
40 on or has ever been convicted of any of the criminal offenses listed in  
41 section 41-1758.03, subsections B and C in this state or similar offenses in  
42 another state or jurisdiction.

43 B. The department may cooperate with county agencies and community  
44 social services agencies to achieve the purposes of this chapter.

45 C. A child protective services worker shall:

- 1 1. Promote the safety and protection of children.
- 2 2. Accept, screen and assess reports of abuse or neglect pursuant to  
3 section 8-817.
- 4 3. Receive reports of dependent, abused or abandoned children and be  
5 prepared to provide temporary foster care for ~~such~~ THESE children on a  
6 twenty-four hour basis.
- 7 4. Receive from any source oral or written information regarding a  
8 child who may be in need of protective services. A worker shall not  
9 interview a child without the prior written consent of the parent, guardian  
10 or custodian of the child unless either:
  - 11 (a) The child initiates contact with the worker.
  - 12 (b) The child who is interviewed is the subject of or is the sibling  
13 of or living with the child who is the subject of an abuse or abandonment  
14 investigation pursuant to paragraph 5, subdivision (b) of this subsection.
  - 15 (c) The interview is conducted pursuant to the terms of the protocols  
16 established pursuant to section 8-817.
- 17 5. After the receipt of any report or information pursuant to  
18 paragraph 2, 3 or 4 of this subsection, immediately do both of the following:
  - 19 (a) Notify the municipal or county law enforcement agency.
  - 20 (b) Make a prompt and thorough investigation of the nature, extent and  
21 cause of any condition that would tend to support or refute the allegation  
22 that the child should be adjudicated dependent and the name, age and  
23 condition of other children in the home. A criminal conduct allegation shall  
24 be investigated according to the protocols established pursuant to section  
25 8-817 with the appropriate municipal or county law enforcement agency as  
26 provided in section 8-817.
- 27 6. Take a child into temporary custody as provided in section 8-821.  
28 Law enforcement officers shall cooperate with the department to remove a  
29 child from the custody of the child's parents, guardian or custodian when  
30 necessary.
- 31 7. After investigation, evaluate conditions created by the parents,  
32 guardian or custodian that would support or refute the allegation that the  
33 child should be adjudicated dependent. The child protective services worker  
34 shall then determine whether any child is in need of protective services.
- 35 8. Offer to the family of any child who is found to be a child in need  
36 of protective services those services that are designed to correct unresolved  
37 problems that would indicate a reason to adjudicate the child dependent.
- 38 9. Submit a written report of the worker's investigation to:
  - 39 (a) The department's case management information system within  
40 ~~twenty-one days~~ A REASONABLE TIME PERIOD THAT DOES NOT EXCEED FORTY-FIVE DAYS  
41 after receipt of the initial information except as provided in section 8-811.  
42 If the investigation involves allegations regarding a child who at the time  
43 of the alleged incident was in the custody of a child welfare agency licensed  
44 by the department of economic security under this title, a copy of the report  
45 and any additional investigative or other related reports shall be provided

1 to the board of directors of the agency or to the administrative head of the  
2 agency unless the incident is alleged to have been committed by the person.  
3 The department shall excise all information with regard to the identity of  
4 the source of the reports.

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

9 10. Accept a child into voluntary placement pursuant to section 8-806.

10 11. Make a good faith effort to promptly obtain and abide by court  
11 orders that restrict or deny custody, visitation or contact by a parent or  
12 other person in the home with the child. As part of ~~their~~ THE good faith  
13 effort, the child protective services worker shall ask the parent, guardian  
14 or custodian under investigation if a current court order exists.

15 D. No child shall remain in temporary custody for a period exceeding  
16 seventy-two hours, excluding Saturdays, Sundays and holidays, unless a  
17 dependency petition is filed. If no petition is filed and the child is  
18 released to the child's parent, guardian or custodian, the worker shall file  
19 a report of removal with the central registry within seventy-two hours of the  
20 child's release. The report shall include:

21 1. The dates of previous referrals, investigations or temporary  
22 custody.

23 2. The dates on which other children in the family have been taken  
24 into temporary custody.

25 E. The department shall provide child protective services workers who  
26 investigate allegations of abuse and neglect with training in forensic  
27 interviewing and processes, the protocols established pursuant to section  
28 8-817 and relevant law enforcement procedures. All child protective services  
29 workers shall be trained in their duty to protect the legal rights of  
30 children and families from the time of the initial contact through treatment.  
31 The training shall include knowledge of a child's rights as a victim of  
32 crime. The training for child protective services workers shall also include  
33 instruction on the legal rights of parents and the requirements for legal  
34 search and seizure by law enforcement officers.

35 F. In conducting an investigation pursuant to this section, if the  
36 worker is made aware that an allegation of abuse or neglect may also have  
37 been made in another state, the worker shall contact the appropriate agency  
38 in that state to attempt to determine the outcome of any investigation of  
39 that allegation.

40 G. Any person who alters a client file for the purpose of fraud or  
41 misrepresentation is guilty of a class 2 misdemeanor.

42 Sec. 3. Section 8-804, Arizona Revised Statutes, is amended to read:

43 8-804. Central registry; notification

44 A. The department of economic security shall maintain a central  
45 registry of reports of child abuse and neglect that are substantiated and the

1 outcome of the investigation of these reports made under this article. A  
2 DETERMINATION MADE BY A COURT PURSUANT TO SECTION 8-844, SUBSECTION C,  
3 PARAGRAPH 1, SUBDIVISION (c) SHALL BE RECORDED AS A SUBSTANTIATED FINDING OF  
4 ABUSE OR NEGLECT. The department shall incorporate duplicate reports on the  
5 same incident in the original report and shall not classify duplicate reports  
6 as new reports.

7 B. Information contained in the central registry shall be used by the  
8 department only for the following purposes:

9 1. To conduct background checks as one factor to determine  
10 qualifications for foster home licensing, adoptive parent certification,  
11 child care home certification, registration of unregulated child care homes  
12 with the child care resource and referral system, and home and community  
13 based services certification for services to children.

14 2. To conduct background checks as one factor to determine  
15 qualifications for persons applying for employment with this state in  
16 positions that provide direct service to children or vulnerable adults and  
17 persons applying for contracts with this state, including employees of the  
18 potential contractor, for positions that provide direct service to children  
19 or vulnerable adults.

20 3. To identify and review reports concerning individual children and  
21 families, in order to facilitate the assessment of risk.

22 4. To determine the nature and scope of child abuse and neglect in  
23 this state and to provide statewide statistical and demographic information  
24 concerning trends in child abuse and neglect.

25 5. To allow comparisons of this state's statistical data with national  
26 data.

27 6. To comply with section 8-804.01, subsection B.

28 C. If the department received a report before September 1, 1999 and  
29 determined that the report was substantiated, the department shall maintain  
30 the report in the central registry until eighteen years from the child  
31 victim's date of birth.

32 D. If the department received a report on or after September 1, 1999  
33 and determined that the report was substantiated, the department shall  
34 maintain the report in the central registry for twenty-five years after the  
35 date of the report.

36 E. The department shall annually purge reports and investigative  
37 outcomes received pursuant to the time frames prescribed in subsections C and  
38 D of this section.

39 F. Any person who was the subject of a child protective services  
40 investigation may request confirmation that the department has purged  
41 information about the person pursuant to subsection E of this section. On  
42 receipt of this request, the department shall provide the person with written  
43 confirmation that the department has no record containing identifying  
44 information about that person.

1           Sec. 4. Section 8-811, Arizona Revised Statutes, is amended to read:

2           8-811. Hearing process; definitions

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

7           1. To receive a copy of the report containing the allegation.

8           2. To a hearing before the entry into the central registry pursuant to  
9 section 8-802, subsection ~~B~~ C, paragraph 9, subdivision (a).

10          B. The department shall send the notice prescribed in subsection A of  
11 this section by first class mail no more than fourteen days after completion  
12 of the investigation.

13          C. A request for a hearing on the proposed finding must be received by  
14 the department within fourteen days after receipt of the notice.

15          D. The department shall not disclose any information related to the  
16 investigation of the allegation except as provided in sections 8-802, 8-807  
17 and 13-3620.

18          E. If a request for a hearing is made pursuant to subsection C of this  
19 section, the department shall conduct a review before the hearing. The  
20 department shall provide an opportunity for the accused person to provide  
21 written or verbal information to support the position that the department  
22 should not substantiate the allegation. If the department determines that  
23 there is no probable cause that the accused person engaged in the alleged  
24 conduct, the department shall amend the information or finding in the report  
25 and shall notify the person and a hearing shall not be held.

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

31          1. The person is a party in a civil, criminal or administrative  
32 proceeding in which the allegations of abuse or neglect are at issue.

33          2. A court or administrative law judge has made findings as to the  
34 alleged abuse or neglect.

35          3. A COURT HAS MADE A DETERMINATION PURSUANT TO SECTION 8-844,  
36 SUBSECTION C, PARAGRAPH 1, SUBDIVISION (c) THAT A FINDING OF ABUSE OR NEGLECT  
37 SHALL BE PLACED ON THE CENTRAL REGISTRY.

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

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

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

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

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

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

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

14 6. IF THE PERSON REQUESTING THE HEARING FAILS TO APPEAR, THE HEARING  
15 SHALL BE VACATED AND A SUBSTANTIATED FINDING OF ABUSE OR NEGLECT SHALL BE  
16 ENTERED. ON GOOD CAUSE SHOWN, THE HEARING MAY BE RESCHEDULED IF THE REQUEST  
17 IS MADE WITHIN FIFTEEN CALENDAR DAYS AFTER THE DATE OF THE NOTICE VACATING  
18 THE HEARING FOR FAILURE TO APPEAR.

19 I. On completion of the presentation of evidence, the administrative  
20 law judge shall determine if probable cause exists to sustain the  
21 department's finding that the ~~accused engaged in the alleged conduct~~ PARENT,  
22 GUARDIAN OR CUSTODIAN ABUSED OR NEGLECTED THE CHILD. If the administrative  
23 law judge determines that probable cause does not exist to sustain the  
24 department's finding, the administrative law judge shall order the department  
25 to amend the information or finding in the report.

26 J. When the department is requested to verify pursuant to section  
27 8-807, if the child protective services central registry contains a  
28 substantiated report about a specific person, the department shall determine  
29 if the report was taken after January 1, 1998. If the report was taken after  
30 January 1, 1998, the department shall notify the requestor of the  
31 substantiated finding. If the child protective services report was taken  
32 before January 1, 1998, the department shall notify the person of the  
33 person's right to request an administrative hearing. The department shall  
34 not send this notification if the person was a party in a civil, criminal or  
35 administrative proceeding in which the allegations of abuse or neglect were  
36 at issue. The provisions of this section shall apply to the person's appeal.

37 K. The department shall provide the parent, guardian or custodian who  
38 is the subject of the investigation and the person who reported the suspected  
39 child abuse or neglect if that person is the child's parent, guardian or  
40 custodian with a copy of the outcome of the investigation at one of the  
41 following times:

42 1. If the report is unsubstantiated.

43 2. If probable cause exists that abuse or neglect has occurred but a  
44 specific person is not identified as having abused or neglected the child.

1           3. After the time to request a hearing has lapsed pursuant to  
2 subsection C of this section without the department receiving a request for a  
3 hearing.

4           4. After a final administrative decision has been made pursuant to  
5 section 41-1092.08.

6           L. For the purposes of this section:

7           1. "Amend the finding" means to change the finding from substantiated  
8 to unsubstantiated.

9           2. "Amend the information" means to change information identifying the  
10 accused of having abused or neglected a child.

11           Sec. 5. Section 8-844, Arizona Revised Statutes, is amended to read:

12           8-844. Dependency adjudication hearing; settlement conference  
13                 or mediation

14           A. Before a contested dependency case proceeds to adjudication, the  
15 court shall hold a settlement conference or pretrial conference or shall  
16 order mediation. All of the parties in the contested action shall  
17 participate in the conference or mediation.

18           B. The court shall take into consideration as a mitigating factor the  
19 availability of reasonable services to the parent or guardian to prevent or  
20 eliminate the need for removal of the child and the effort of the parent or  
21 guardian to obtain and participate in these services.

22           C. If, at the dependency adjudication hearing, the court:

23           1. Finds by a preponderance of the evidence that the allegations  
24 contained in the petition are true, the court shall:

25           (a) Make the following findings as to each parent:

26           (i) That the court has jurisdiction over the subject matter and the  
27 person before the court.

28           (ii) The factual basis for the dependency.

29           (iii) That the child is dependent.

30           (b) Conduct a disposition hearing.

31           (c) **FOR THE PURPOSES OF INCLUSION IN THE CENTRAL REGISTRY MAINTAINED**  
32 **BY THE DEPARTMENT PURSUANT TO SECTION 8-804, DETERMINE WHETHER THERE IS A**  
33 **SUBSTANTIATED FINDING OF ABUSE OR NEGLECT.**

34           2. Does not find by a preponderance of the evidence that the  
35 allegations contained in the petition are true, the court shall dismiss the  
36 petition.

37           D. The court may adjudicate a child dependent as to one parent or  
38 guardian and proceed with a disposition, review or permanency hearing or any  
39 other hearing as to that particular parent or guardian notwithstanding  
40 another parent's or guardian's request to contest the allegations in the  
41 petition or that another parent or guardian has not been served.

42           E. The court may hold the disposition hearing on the same date as the  
43 dependency adjudication hearing or at a later date that is not more than  
44 thirty days after the date of the dependency adjudication hearing.

1           F. If a parent does not appear at the pretrial conference, settlement  
2 conference or dependency adjudication hearing, the court, after determining  
3 that the parent has been instructed as provided in section 8-826, may find  
4 that the parent has waived the parent's legal rights and is deemed to have  
5 admitted the allegations of the petition by the failure to appear. The court  
6 may make a determination of dependency and disposition based on the record  
7 and evidence presented as provided in rules prescribed by the supreme court.  
8           G. Evidence considered by the court in making a decision pursuant to  
9 this section shall also include any substantiated allegations of abuse or  
10 neglect committed in another jurisdiction.