

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HOUSE BILL 2522

AN ACT

AMENDING SECTIONS 8-201, 8-455, 8-456, 8-471 AND 8-807.01, 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 8-201, 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 and
17 is caused by the acts or omissions of an individual who has the care, custody
18 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 that results from permitting a child to enter or
27 remain in any structure or vehicle in which volatile, toxic or flammable
28 chemicals are found or equipment is possessed by any person for the purpose
29 of manufacturing a dangerous drug as defined in section 13-3401.
30 (c) Unreasonable confinement of a child.
31 3. "Adult" means a person who is eighteen years of age or older.
32 4. "Adult court" means the appropriate justice court, municipal court
33 or criminal division of the superior court that has jurisdiction to hear
34 proceedings concerning offenses committed by juveniles as provided in
35 sections 8-327 and 13-501.
36 5. "Award" or "commit" means to assign legal custody.
37 6. "Child", "youth" or "juvenile" means an individual who is under the
38 age of eighteen years.
39 7. "Complaint" means a written statement of the essential facts
40 constituting a public offense that is any of the following:
41 (a) Made on an oath before a judge or commissioner of the superior
42 court or an authorized juvenile hearing officer.
43 (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 a
5 parent, guardian or custodian of a child or an adult member of the victim's
6 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 in
9 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 guardian,
17 who stands in loco parentis to the child or a person to whom legal custody of
18 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 ~~10-~~ 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 ~~11-~~ 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 state,
28 or a law of the United States, or a violation of any law that can only be
29 violated by a minor and that has been designated as a delinquent offense, or
30 any ordinance of a city, county or political subdivision of this state
31 defining crime. Delinquent act does not include an offense under section
32 13-501, subsection A or B if the offense is filed in adult court. Any
33 juvenile who is prosecuted as an adult or who is remanded for prosecution as
34 an adult shall not be adjudicated as a delinquent juvenile for the same
35 offense.

36 ~~12-~~ 13. "Delinquent juvenile" means a child who is adjudicated to have
37 committed a delinquent act.

38 ~~13-~~ 14. "Department" means the department of child safety.

39 ~~14-~~ 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 who
42 has no parent or guardian, or one who has no parent or guardian willing to
43 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, cruelty
2 or depravity by a parent, a guardian or any other person having custody or
3 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 to
8 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 the
11 circumstances described in subdivision (a) of this paragraph exists.

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

17 ~~16.~~ 17. "Director" means the director of the department.

18 ~~17.~~ 18. "Health professional" has the same meaning prescribed in
19 section 32-3201.

20 ~~18.~~ 19. "Incorrigible child" means a child who:

21 (a) Is adjudicated as a child who refuses to obey the reasonable and
22 proper orders or directions of a parent, guardian or custodian and who is
23 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 the
29 morals or health of self or others.

30 (e) Commits any act constituting an offense that can only be committed
31 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 ~~19.~~ 20. "Independent living program" includes a residential program
35 with supervision of less than twenty-four hours a day.

36 ~~20.~~ 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 ~~21.~~ 22. "Law enforcement officer" means a peace officer, sheriff,
40 deputy sheriff, municipal police officer or constable.

41 ~~22.~~ 23. "Medical director of a mental health agency" means a
42 psychiatrist, or licensed physician experienced in psychiatric matters, who
43 is designated in writing by the governing body of the agency as the person in
44 charge of the medical services of the agency, or a psychiatrist designated by

1 the governing body to act for the director. The term includes the
2 superintendent of the state hospital.

3 ~~23.~~ 24. "Mental health agency" means any private or public facility
4 that is licensed by this state as a mental health treatment agency, a
5 psychiatric hospital, a psychiatric unit of a general hospital or a
6 residential treatment center for emotionally disturbed children and that uses
7 secure settings or mechanical restraints.

8 ~~24.~~ 25. "Neglect" or "neglected" means:

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

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

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

29 (i) Clinical indicators in the prenatal period including maternal and
30 newborn presentation.

31 (ii) History of substance use or abuse.

32 (iii) Medical history.

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

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

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

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

- 1 (i) Sexual contact as defined in section 13-1401.
2 (ii) Oral sexual contact as defined in section 13-1401.
3 (iii) Sexual intercourse as defined in section 13-1401.
4 (iv) Bestiality as prescribed in section 13-1411.
5 ~~25-~~ 26. "Newborn infant" means a child who is under thirty days of
6 age.
7 ~~26-~~ 27. "Petition" means a written statement of the essential facts
8 that allege delinquency, incorrigibility or dependency.
9 ~~27-~~ 28. "Prevention" means the creation of conditions, opportunities
10 and experiences that encourage and develop healthy, self-sufficient children
11 and that occur before the onset of problems.
12 ~~28-~~ 29. "Protective supervision" means supervision that is ordered by
13 the juvenile court of children who are found to be dependent or incorrigible.
14 ~~29-~~ 30. "Referral" means a report that is submitted to the juvenile
15 court and that alleges that a child is dependent or incorrigible or that a
16 juvenile has committed a delinquent or criminal act.
17 ~~30. "Report for investigation" means a report prepared pursuant to~~
18 ~~section 8-455, subsection D.~~
19 31. "Secure care" means confinement in a facility that is completely
20 surrounded by a locked and physically secure barrier with restricted ingress
21 and egress.
22 32. "Serious emotional injury" means an injury that is diagnosed by a
23 medical doctor or a psychologist and that does any one or a combination of
24 the following:
25 (a) Seriously impairs mental faculties.
26 (b) Causes serious anxiety, depression, withdrawal or social
27 dysfunction behavior to the extent that the child suffers dysfunction that
28 requires treatment.
29 (c) Is the result of sexual abuse pursuant to section 13-1404, sexual
30 conduct with a minor pursuant to section 13-1405, sexual assault pursuant to
31 section 13-1406, molestation of a child pursuant to section 13-1410, child
32 prostitution pursuant to section 13-3212, commercial sexual exploitation of a
33 minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to
34 section 13-3553 or incest pursuant to section 13-3608.
35 33. "Serious physical injury" means an injury that is diagnosed by a
36 medical doctor and that does any one or a combination of the following:
37 (a) Creates a reasonable risk of death.
38 (b) Causes serious or permanent disfigurement.
39 (c) Causes significant physical pain.
40 (d) Causes serious impairment of health.
41 (e) Causes the loss or protracted impairment of an organ or limb.
42 (f) Is the result of sexual abuse pursuant to section 13-1404, sexual
43 conduct with a minor pursuant to section 13-1405, sexual assault pursuant to
44 section 13-1406, molestation of a child pursuant to section 13-1410, child
45 prostitution pursuant to section 13-3212, commercial sexual exploitation of a

1 minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to
2 section 13-3553 or incest pursuant to section 13-3608.

3 34. "Shelter care" means the temporary care of a child in any public or
4 private facility or home that is licensed by this state and that offers a
5 physically nonsecure environment that is characterized by the absence of
6 physically restricting construction or hardware and that provides the child
7 access to the surrounding community.

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

9 8-455. Centralized intake hotline; purposes; report of possible
10 crime; DCS report; risk assessment tools; access to
11 information; public awareness; definition

12 A. The department shall operate and maintain a centralized intake
13 hotline to protect children by receiving at all times communications
14 concerning suspected abuse or neglect. If a person communicates suspected
15 abuse or neglect to a department employee other than through the hotline, the
16 employee shall refer the person or communication to the hotline.

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

19 1. Record communications made concerning suspected abuse or neglect.

20 2. Immediately take steps necessary to identify and locate prior
21 communications and DCS reports ~~for investigation~~ related to the current
22 communication using the department's data system and the central registry
23 system of this state.

24 3. Quickly and efficiently provide information to a law enforcement
25 agency or prepare a DCS report ~~for investigation~~ as required by this section.

26 4. Determine the proper initial priority level of investigation based
27 on the ~~risk~~ REPORT SCREENING assessment and direct the DCS report ~~for~~
28 ~~investigation~~ to the appropriate part of the department based on this
29 determination.

30 C. If a communication provides a reason to believe that a criminal
31 offense has been committed ~~AND THE COMMUNICATION DOES NOT MEET THE CRITERIA~~
32 ~~FOR A DCS REPORT~~, the hotline worker shall immediately provide the
33 information to ~~both of the following:~~

34 ~~1. The appropriate law enforcement agency pursuant to the protocols~~
35 ~~developed pursuant to section 8-817.~~

36 ~~2. If a report for investigation is prepared as required in subsection~~
37 ~~D of this section and the suspected criminal offense is a criminal conduct~~
38 ~~allegation, the office of child welfare investigations~~ THE APPROPRIATE LAW
39 ENFORCEMENT AGENCY.

40 D. A hotline worker shall prepare a DCS report ~~for investigation~~ if
41 THE IDENTITY OR CURRENT LOCATION OF THE CHILD VICTIM, THE CHILD'S FAMILY OR
42 THE PERSON SUSPECTED OF ABUSE OR NEGLECT IS KNOWN OR CAN BE REASONABLY
43 ASCERTAINED AND all of the following are alleged:

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

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

1 3. The suspected victim of the conduct is a resident of or present in
2 this state. ~~or any act involved in the suspected abuse or neglect occurred~~
3 ~~in this state.~~

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

7 E. EXCEPT FOR CRIMINAL CONDUCT ALLEGATIONS, THE DEPARTMENT IS NOT
8 REQUIRED TO PREPARE A DCS REPORT IF ALL OF THE FOLLOWING APPLY:

9 1. THE SUSPECTED CONDUCT OCCURRED MORE THAN THREE YEARS BEFORE THE
10 COMMUNICATION TO THE HOTLINE.

11 2. THERE IS NO INFORMATION OR INDICATION THAT A CHILD IS CURRENTLY
12 BEING ABUSED OR NEGLECTED.

13 ~~E. F. All reports for investigation must be investigated~~
14 INVESTIGATIONS OF DCS REPORTS SHALL BE CONDUCTED as provided in section 8-456
15 EXCEPT FOR INVESTIGATIONS CONTAINING ALLEGATIONS OF CRIMINAL CONDUCT, WHICH
16 SHALL BE CONDUCTED AS PROVIDED IN SECTION 8-471.

17 ~~F. If otherwise required by:~~

18 ~~1. Subsection C of this section, information must be provided to the~~
19 ~~appropriate law enforcement agency even if the identity or location of the~~
20 ~~person suspected of abuse or neglect or the victim of the abuse or neglect is~~
21 ~~not known.~~

22 ~~2. Subsection D of this section, a report for investigation must be~~
23 ~~prepared even if the identity or location of the person suspected of abuse or~~
24 ~~neglect or the victim of the abuse or neglect is not known.~~

25 G. The department shall develop and train hotline workers to use
26 uniform risk assessment tools to determine:

27 1. Whether the suspected conduct constitutes abuse or neglect and the
28 severity of the suspected abuse or neglect.

29 2. Whether the suspected abuse or neglect involves criminal conduct,
30 even if the communication does not result in the preparation of a DCS report
31 ~~for investigation.~~

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

34 H. A DCS report ~~for investigation~~ must include, if available, all of
35 the following:

36 1. The name, address or contact information for the person making the
37 communication.

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

41 3. The name, address and other location or contact information for the
42 child.

43 4. The nature and extent of the indications of the child's abuse or
44 neglect, including any indication of physical injury.

1 5. Any information regarding possible prior abuse or neglect,
2 including reference to any communication or DCS report ~~for investigation~~
3 involving the child, the child's siblings or the person suspected of
4 **COMMITTING THE** abuse or neglect.

5 I. Information gathered through the hotline must be made available to
6 an employee of the department in order to perform the employee's duties. The
7 office of child welfare investigations and the inspections bureau must have
8 immediate access to all records of the hotline.

9 J. A representative of the:

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

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

14 K. The department shall publicize the availability and the purposes of
15 the centralized intake hotline.

16 L. For the purposes of this section, :

17 1. "Centralized intake hotline" means the system developed pursuant to
18 this section regardless of the communication methods or technologies used to
19 implement the system.

20 2. **"CRIMINAL OFFENSE" MEANS AN ALLEGATION OF CONDUCT AGAINST A CHILD**
21 **BY A PERSON OTHER THAN A PARENT, GUARDIAN OR CUSTODIAN OF THE CHILD VICTIM OR**
22 **ANOTHER ADULT MEMBER OF THE CHILD'S HOUSEHOLD THAT, IF TRUE, WOULD CONSTITUTE**
23 **A FELONY OFFENSE.**

24 Sec. 3. Section 8-456, Arizona Revised Statutes, is amended to read:
25 8-456. Investigative function; training; criminal offenses;
26 definition

27 A. The department shall train all investigators in forensic
28 interviewing and processes and the protocols established pursuant to section
29 8-817. The training must include:

30 1. Uniform safety and risk assessment tools to determine whether the
31 conduct constitutes abuse or neglect and the severity of the abuse or
32 neglect.

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

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

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

39 B. The office of child welfare investigations shall investigate **DCS**
40 reports ~~for investigation~~ that contain a criminal conduct allegation as
41 provided in sections 8-471 and 8-817.

42 C. After receiving a **DCS** report ~~for investigation~~ from the centralized
43 intake hotline pursuant to section 8-455, an investigator shall do all of the
44 following:

1 1. Make a prompt and thorough investigation. An investigation must
2 evaluate and determine the nature, extent and cause of any condition created
3 by the parents, guardian or custodian or an adult member of the victim's
4 household that would tend to support or refute the allegation that the child
5 is a victim of abuse or neglect and determine the name, age and condition of
6 other children in the home. If an investigator has sufficient information to
7 determine that the child is not a victim of abuse or neglect, the
8 investigator may close the investigation.

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

13 D. After an investigation, an investigator shall:

14 1. Determine whether any child is in need of child safety services
15 consistent with the evaluation and determination made pursuant to subsection
16 C of this section.

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

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

22 (a) The department's case management information system within a
23 reasonable amount of time that does not exceed forty-five days after receipt
24 of the DCS report ~~for investigation~~ except as provided in section 8-811. If
25 the investigation involves allegations regarding a child who at the time of
26 the alleged incident was in the custody of a child welfare agency licensed by
27 the department under this title, a copy of the report and any additional
28 investigative or other related reports must be provided to the board of
29 directors of the agency or to the administrative head of the agency unless
30 the incident is alleged to have been committed by the person. The department
31 shall excise all information with regard to the identity of the source of the
32 reports.

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

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

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

42 E. In conducting an investigation pursuant to this section, if the
43 investigator is made aware that an allegation of abuse or neglect may also
44 have been made in another state, the investigator shall contact the

1 appropriate agency in that state to attempt to determine the outcome of any
2 investigation of that allegation.

3 F. If an investigation indicates a reason to believe that a criminal
4 offense has been committed, the investigator shall immediately provide the
5 information to the appropriate law enforcement agency and the office of child
6 welfare investigations, unless the information was previously provided
7 pursuant to section 8-455.

8 G. For the purposes of this section, "investigator" means an employee
9 of the department who investigates allegations of abuse or neglect pursuant
10 to a DCS report ~~for investigation~~.

11 Sec. 4. Section 8-471, Arizona Revised Statutes, is amended to read:
12 8-471. Office of child welfare investigations; training;
13 responsibilities; annual report

14 A. The director shall establish the office of child welfare
15 investigations within the department. The director is responsible for the
16 direction, operation and control of the office.

17 B. The duties of the office include investigating criminal conduct
18 allegations, coordinating with other parts of the department and law
19 enforcement, establishing task forces for the investigation of criminal
20 conduct and other duties as may be assigned by the director.

21 C. The office shall employ child welfare investigators who have
22 received training to understand law enforcement's role in cases of criminal
23 child abuse or neglect and in social services offered by the department. The
24 office may employ research analysts and peace officers for the purpose of
25 obtaining an originating agency identification number to have direct access
26 to criminal history report information. Each person hired by the office is
27 an employee of the department, is subject to title 41, chapter 4, article 4
28 and shall comply with the fingerprint requirements of section 8-802.

29 D. The department, in coordination with the Arizona peace officer
30 standards and training board, shall provide child welfare investigators with
31 training. The training shall be, at a minimum, in the following areas:

- 32 1. First responder training on responding to reports of child abuse.
- 33 2. Forensic interviewing and processes.
- 34 3. Child physical and sexual abuse investigation.
- 35 4. The protocols established pursuant to section 8-817.
- 36 5. Relevant law enforcement procedures, including the collection and
37 preservation of evidence.

38 6. A child's constitutional rights as a victim of a crime pursuant to
39 article II, section 2.1, Constitution of Arizona.

40 7. Impact and intervention practices related to adverse childhood
41 experiences, culturally and linguistically appropriate service delivery,
42 domestic violence, family engagement, communication with special populations
43 and trauma informed responses.

44 8. Any other training as directed by the director.

45 E. A child welfare investigator shall:

- 1 1. Protect children.
- 2 2. Assess, respond to or investigate all criminal conduct allegations,
3 which shall be a priority, but not otherwise exercise the authority of a
4 peace officer.
- 5 3. Not interview a child without the prior written consent of the
6 parent, guardian or custodian of the child unless either:
7 (a) The child initiates contact with the investigator.
8 (b) The child who is interviewed is the subject of, is the sibling of
9 or is living with the child who is the subject of an abuse or abandonment
10 investigation pursuant to paragraph 4, subdivision (b) of this subsection.
11 (c) The interview is conducted pursuant to the terms of the protocols
12 established pursuant to section 8-817.
- 13 4. After the receipt of any report or information pursuant to
14 paragraph 2 of this subsection, immediately do both of the following:
15 (a) Notify the appropriate municipal or county law enforcement agency
16 if they have not already been notified.
17 (b) Make a prompt and thorough investigation of the nature, extent and
18 cause of any condition that would tend to support or refute the report of
19 child abuse or neglect when investigating allegations pursuant to paragraph 2
20 of this subsection. A criminal conduct allegation shall be investigated with
21 the appropriate municipal or county law enforcement agency according to the
22 protocols established pursuant to section 8-817.
- 23 5. Take a child into temporary custody as provided in section 8-821.
24 Law enforcement officers shall cooperate with the department to remove a
25 child from the custody of the child's parents, guardian or custodian pursuant
26 to section 8-821. A child welfare investigator who is responding to or
27 investigating a report containing a criminal conduct allegation shall have
28 the primary responsibility for making the decision whether to take a child
29 into temporary custody.
- 30 6. Evaluate conditions created by the parents, guardian or custodian
31 that would support or refute the allegation that the child should be
32 adjudicated dependent. The investigator shall then determine whether any
33 child is in need of child safety services.
- 34 7. Identify, promptly obtain and abide by court orders that restrict
35 or deny custody, visitation or contact by a parent or other person in the
36 home with the child and notify appropriate personnel within the department to
37 preclude violations of a court order in the provision of any services.
- 38 8. On initial contact with the parent, guardian or custodian of a
39 child who is the subject of an investigation pursuant to this section,
40 provide the parent, guardian or custodian with the allegation received by the
41 department. This paragraph does not require the department to disclose
42 details or information that would compromise an ongoing criminal
43 investigation.
- 44 9. Have access to all records and information of the department
45 necessary to carry out this section.

1 F. Unless a dependency petition is filed, a child shall not remain in
2 temporary custody for a period exceeding seventy-two hours, excluding
3 Saturdays, Sundays and holidays. If a petition is not filed, the child shall
4 be released to the child's parent, guardian or custodian.

5 G. In conducting an investigation pursuant to this section, if the
6 investigator is made aware that an allegation of abuse or neglect may also
7 have been made in another state, the investigator shall contact the
8 appropriate agency in that state to attempt to determine the outcome of any
9 investigation of that allegation.

10 H. The office of child welfare investigations shall submit a report by
11 August 15 each year to the governor, the speaker of the house of
12 representatives, the president of the senate and the secretary of state that
13 includes the following information for the most recently completed fiscal
14 year:

15 1. The number of DCS reports ~~for investigation~~ that involve criminal
16 conduct allegations.

17 2. The number of joint investigations conducted pursuant to section
18 8-817.

19 3. For each case in which a joint investigation did not occur pursuant
20 to section 8-817, the reasons why the joint investigation did not occur.

21 I. All records gathered or created by the department during an
22 investigation conducted under this section are confidential and shall be
23 protected and released as prescribed in sections 8-807 and 8-807.01, except
24 the department shall not release records if the department determines that
25 the release of these records may compromise an ongoing investigation.

26 J. Notwithstanding any other law, the office of child welfare
27 investigations is not responsible for conducting the criminal investigation
28 of a criminal conduct allegation.

29 Sec. 5. Section 8-807.01, Arizona Revised Statutes, is amended to
30 read:

31 8-807.01. Incidents involving fatality or near fatality:
32 definition

33 A. The department shall promptly provide DCS information to the public
34 regarding a case of child abuse, abandonment or neglect that has resulted in
35 a fatality or near fatality as follows:

36 1. The department shall provide preliminary information including at a
37 minimum:

38 (a) In the case of a fatality, the name of the child who has died.

39 (b) The age, gender, county and general location of the residence of
40 the child who has suffered a fatality or a near fatality.

41 (c) The fact that a child suffered a fatality or near fatality as the
42 result of abuse, abandonment or neglect.

43 (d) The name, age and city, town or general location of the residence
44 of the alleged perpetrator, if available, unless the disclosure would violate

1 the privacy of victims of crime pursuant to article II, section 2.1,
2 Constitution of Arizona.

3 (e) Whether there have been reports, or any current or past cases, of
4 abuse, abandonment or neglect involving the child or the alleged perpetrator.

5 (f) Actions taken by the department in response to the fatality or
6 near fatality of the child.

7 (g) A detailed synopsis of prior reports or cases of abuse,
8 abandonment or neglect involving the child or the alleged perpetrator and of
9 the actions taken or determinations made by the department in response to
10 these reports or cases.

11 2. On request by any person, the department shall promptly provide
12 additional DCS information to the requestor in a case of child abuse,
13 abandonment or neglect that has resulted in a fatality or a near fatality.
14 Before releasing additional DCS information, the department shall promptly
15 notify the county attorney of any decision to release that information, and
16 the county attorney shall promptly inform the department if it believes the
17 release would cause a specific, material harm to a criminal investigation or
18 prosecution. After consulting with the county attorney, pursuant to
19 paragraph 3 of this subsection, the department shall produce to the requestor
20 as much additional DCS information as promptly as possible about a case of
21 child abuse, abandonment or neglect that resulted in a fatality or near
22 fatality.

23 3. On request, the department shall continue to provide DCS
24 information promptly to the public about a fatality or near fatality unless:

25 (a) After consultation with the county attorney, the county attorney
26 demonstrates that release of particular DCS information would cause a
27 specific, material harm to a criminal investigation or prosecution.

28 (b) The release would violate section 8-807, subsection A or L or the
29 privacy of victims of crime pursuant to article II, section 2.1, Constitution
30 of Arizona.

31 4. If any person believes that the county attorney has failed to
32 demonstrate that release would cause a specific, material harm to a criminal
33 investigation or prosecution, that person may file an action in superior
34 court pursuant to title 39, chapter 1, article 2 and section 8-807,
35 subsection J and request the court to review the DCS information in camera to
36 determine if disclosure should be ordered.

37 5. Within ninety days after the date of the DCS report ~~for~~
38 ~~investigation~~ for a case involving a fatality or a near fatality, the
39 department shall provide to the public a summary report that:

40 (a) May include any actions taken by the department in response to the
41 case, any changes in policies or practices that have been made to address any
42 issues raised in the review of the case and any recommendations for further
43 changes in policies, practices, rules or statutes to address those issues.

1 (b) Shall include the information prescribed in subsection B of this
2 section if the child was residing in the child's home and in subsection C of
3 this section if the child was placed in an out-of-home placement.

4 B. If the summary report prescribed in subsection A, paragraph 5 of
5 this section involves a child who was residing in the child's home, the
6 summary report shall contain a summary of all of the following:

7 1. Whether services pursuant to this chapter were being provided to
8 the child, a member of the child's family or the person suspected of the
9 abuse or neglect at the time of the incident and the date of the last contact
10 before the incident between the entity providing the services and the person
11 receiving the services.

12 2. Whether the child, a member of the child's family or the person
13 suspected of the abuse or neglect was the subject of a DCS report ~~for~~
14 ~~investigation~~ at the time of the incident.

15 3. All involvement of the child's parents and of the person suspected
16 of the abuse or neglect in a situation for which a DCS report ~~for~~
17 ~~investigation~~ was made or in services provided pursuant to this chapter in
18 the five years preceding the incident involving a fatality or a near
19 fatality.

20 4. Any investigation pursuant to a DCS report ~~for investigation~~
21 concerning the child, a member of the child's family or the person suspected
22 of the abuse or neglect or services provided to the child or the child's
23 family since the date of the incident involving a fatality or a near
24 fatality.

25 C. If the summary report prescribed in subsection A, paragraph 5 of
26 this section involves a child who was in out-of-home placement, the summary
27 report shall include the name of any agency the licensee was licensed by, the
28 licensing history of the out-of-home placement, including the type of license
29 held by the operator of the placement, the period for which the placement has
30 been licensed and a summary of all violations by the licensee and any other
31 actions by the licensee or an employee of the licensee that constitute a
32 substantial failure to protect and promote the health, safety and welfare of
33 a child.

34 D. For the purposes of this section, "near fatality" means an act
35 that, as certified by a physician, including the child's treating physician,
36 places a child in serious or critical condition.