

REFERENCE TITLE: child abuse; neglect; considerations; procedures

State of Arizona  
Senate  
Fifty-fourth Legislature  
Second Regular Session  
2020

## **SB 1676**

Introduced by  
Senator Farnsworth D

AN ACT

AMENDING TITLE 8, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 8-812; RELATING TO DEPENDENT CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 8, chapter 4, article 8, Arizona Revised Statutes,  
3 is amended by adding section 8-812, to read:

4 8-812. Abuse; neglect; prohibited factors; imminent threat;  
5 searches; body cameras; probable cause; prohibited  
6 actions

7 A. IF A CHILD IS ALLEGED TO BE ABUSED OR NEGLECTED:

8 1. THE DEPARTMENT AND THE COURT MAY NOT CONSIDER:

9 (a) FALSE ACCUSATIONS. IF A SWORN AFFIDAVIT IS PRESENTED THAT  
10 ESTABLISHES FACTS CONTRARY TO THE ACCUSATIONS, THE APPROPRIATE COUNTY  
11 ATTORNEY SHALL INVESTIGATE WHETHER THE ACCUSER IS GUILTY OF PERJURY.

12 (b) FALSIFIED DEPARTMENT RECORDS.

13 (c) FALSIFIED POLICE RECORDS.

14 (d) EVIDENCE PLANTED BY A STATE INVESTIGATOR.

15 (e) THE VACCINATION HISTORY OF A CHILD, INCLUDING WHETHER THE  
16 PARENT OR GUARDIAN HAS RECORDS OF VACCINATIONS.

17 (f) WHETHER THE CHILD IS HOME SCHOOLED.

18 (g) A SECOND OPINION.

19 (h) MUNCHHAUSEN SYNDROME BY PROXY OR FACTITIOUS DISORDER.

20 (i) FAILURE TO PROTECT WHEN THE SITUATION OBVIOUSLY DOES NOT  
21 INVOLVE A FAILURE TO PROTECT.

22 (j) MEDICAL NEGLIGENCE WHEN THE SITUATION OBVIOUSLY DOES NOT INVOLVE  
23 MEDICAL NEGLIGENCE.

24 (k) BROKEN BONES IN INFANTS UNLESS THERE IS CLEAR AND CONVINCING  
25 EVIDENCE OF CORRESPONDING ABUSE SUCH AS BRUISING OR DAMAGE TO INTERNAL  
26 ORGANS.

27 (l) THE FACT THAT A PARENT WAS A FOSTER CHILD OR OTHERWISE UNDER  
28 THE JURISDICTION OF THE DEPARTMENT.

29 (m) CLUTTER IN THE HOME, UNLESS A PHOTOGRAPH OF THE CLUTTER WOULD  
30 CONVINCED A JURY THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THERE IS A  
31 DANGER TO A CHILD AND THE PARENT REFUSES TO CLEAN UP THE CLUTTER.

32 (n) THE FACT THAT THE FAMILY IS HOMELESS.

33 2. A CHILD MAY NOT BE REMOVED BASED ON IMMINENT THREAT WITHOUT A  
34 SWORN AND NOTARIZED AFFIDAVIT BEING PREPARED BEFORE THE REMOVAL AND  
35 PROVIDED TO THE PARENT OR GUARDIAN WITHIN SIX HOURS AFTER THE REMOVAL.  
36 THE AFFIDAVIT SHALL BE SUBMITTED TO THE COURT AND SHALL REMAIN PART OF THE  
37 COURT RECORD. IF THE AFFIDAVIT IS NOT SUBMITTED OR RETAINED, THE COURT  
38 SHALL DISMISS THE ACTION INVOLVING THE PARENT OR GUARDIAN.

39 3. BEFORE SEARCHING THE HOME OF A PARENT OR GUARDIAN, A DEPARTMENT  
40 INVESTIGATOR OR A LAW ENFORCEMENT OFFICER SHALL ANNOUNCE WHETHER OR NOT  
41 THE SEARCH IS BEING CONDUCTED PURSUANT TO A SEARCH WARRANT. IF THE SEARCH  
42 IS BEING CONDUCTED PURSUANT TO A SEARCH WARRANT, THE DEPARTMENT  
43 INVESTIGATOR OR LAW ENFORCEMENT OFFICER SHALL PROVIDE THE TARGET OF THE  
44 SEARCH A COPY OF THE SEARCH WARRANT BEFORE CONDUCTING THE SEARCH TO ALLOW  
45 THAT PERSON TO UNDERSTAND THE NATURE AND LIMITS OF THE SEARCH AND TO

1 EXAMINE THE SIGNATURE. IF THE TARGET OF THE SEARCH IS THE PARENT OR  
2 GUARDIAN OF THE CHILD, THE DEPARTMENT INVESTIGATOR OR LAW ENFORCEMENT  
3 OFFICER SHALL PROVIDE A COPY OF TITLE 1, CHAPTER 6 TO THE PARENT OR  
4 GUARDIAN.

5 B. IN A CRIMINAL OR DEPARTMENT INVESTIGATION OF ALLEGED ABUSE OR  
6 NEGLECT, THE LAW ENFORCEMENT OFFICER AND DEPARTMENT INVESTIGATOR SHALL  
7 WEAR AND ACTIVATE A BODY CAMERA IN ANY INTERACTION WITH THE FAMILY. THE  
8 SUBJECT OF THE INVESTIGATION MAY OBTAIN A COPY OF RECORDINGS MADE DURING  
9 THESE INVESTIGATIONS FOR A NOMINAL FEE. IF A RECORDING IS NOT AVAILABLE  
10 TO THE SUBJECT OF THE INVESTIGATION AND THE COURT, THE COURT SHALL DISMISS  
11 ANY CRIMINAL OR PARENTAL TERMINATION ACTION AGAINST THE SUBJECT OF THE  
12 INVESTIGATION.

13 C. THE DEPARTMENT SHALL PROVIDE ITS EMPLOYEES TRAINING TO RECOGNIZE  
14 PROBABLE CAUSE OF ABUSE OR NEGLECT. THE REFUSAL OF A PARENT TO ALLOW A  
15 WARRANTLESS SEARCH DOES NOT PROVIDE PROBABLE CAUSE TO BELIEVE THAT THERE  
16 IS ABUSE OR NEGLECT OF A CHILD. THIS STATE IS NOT RESPONSIBLE FOR HARM  
17 DONE TO A CHILD BY A PARENT OR GUARDIAN IF THE DEPARTMENT DOES NOT FIND  
18 ENOUGH CREDIBLE EVIDENCE TO ESTABLISH PROBABLE CAUSE OF ABUSE OR NEGLECT  
19 AND THE DEPARTMENT DOES NOT REMOVE THE CHILD.

20 D. A PERSON WHO MAKES ANY PAYMENT TO OR RECEIVES ANY PAYMENT FROM  
21 THE DEPARTMENT THAT RESEMBLES A REFERRAL FEE IS GUILTY OF A VIOLATION.  
22 EVERYONE IS A MANDATED REPORTER. PROSECUTORIAL DISCRETION RESIDES  
23 EXCLUSIVELY WITH THE GRAND JURY.

24 E. THE DEPARTMENT MAY NOT RECEIVE ANY FORM OF COMPENSATION FOR  
25 PROVIDING CHILDREN TO CLINICAL TRIALS. A PARENT MAY ENTER INTO A CONTRACT  
26 BASED ON INFORMED CONSENT IF THE SAFETY OF THE CHILD IS PROTECTED. A  
27 PERSON WHO MAKES A SECRET DEAL FOR A CLINICAL TRIAL IS GUILTY OF A  
28 VIOLATION. EVERYONE IS A MANDATED REPORTER. PROSECUTORIAL DISCRETION  
29 RESIDES EXCLUSIVELY WITH THE GRAND JURY.

30 F. THE APPROPRIATE PROSECUTING ATTORNEY SHALL INVESTIGATE ANY  
31 ALLEGED SUPPRESSION OF EXCULPATORY EVIDENCE WITH A FINANCIAL MOTIVE AS A  
32 VIOLATION. PROSECUTORIAL DISCRETION RESIDES EXCLUSIVELY WITH THE GRAND  
33 JURY. IMMUNITY MAY NOT BE EXTENDED TO ANYONE OTHER THAN THE JUDGE.

34 G. BEFORE TAKING AN ACTION REGARDING ALLEGED ABUSE OR NEGLECT OF A  
35 CHILD, A LAW ENFORCEMENT OFFICER SHALL TAKE REASONABLE MEASURES TO ENSURE  
36 THAT THE LAW ENFORCEMENT OFFICER IS ENFORCING A LEGAL ORDER. LAW  
37 ENFORCEMENT RETAINS PROSECUTORIAL DISCRETION THAT MAY BE SUPERSEDED BY THE  
38 PEOPLE THROUGH THE LAWFUL ACTIONS OF THE GRAND JURY OR EXPLICIT PROVISIONS  
39 OF STATUTE.