

Senate Engrossed
child neglect; exception; financial resources

State of Arizona
Senate
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2025

SENATE BILL 1246

AN ACT

AMENDING SECTIONS 8-201 AND 8-201.01, ARIZONA REVISED STATUTES; RELATING TO CHILD NEGLECT.

(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.

23 (b) Includes:

24 (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 (ii) Physical injury that results from allowing a child to enter or
32 remain in any structure or vehicle in which volatile, toxic or flammable
33 chemicals are found or equipment is possessed by any person for the
34 purpose of manufacturing a dangerous drug as defined in section 13-3401.

35 (iii) Unreasonable confinement of a child.

36 3. "Adult" means a person who is eighteen years of age or older.

37 4. "Adult court" means the appropriate justice court, municipal
38 court or criminal division of the superior court that has jurisdiction to
39 hear proceedings concerning offenses committed by juveniles as provided in
40 sections 8-327 and 13-501.

41 5. "Award" or "commit" means to assign legal custody.

42 6. "Child", "youth" or "juvenile" means an individual who is under
43 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.

44 15. "Dependent child":

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

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

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

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

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

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

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

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

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

23 18. "Health professional" has the same meaning prescribed in
24 section 32-3201.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (i) Clinical indicators in the prenatal period including maternal
35 and newborn presentation.

36 (ii) History of substance use or abuse.

37 (iii) Medical history.

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

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

43 (e) Deliberate exposure of a child by a parent, guardian or
44 custodian to sexual conduct as defined in section 13-3551 or to sexual
45 contact, oral sexual contact or sexual intercourse as defined in section

1 13-1401, bestiality as prescribed in section 13-1411 or explicit sexual
2 materials as defined in section 13-3507.

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

- 6 (i) Sexual contact as defined in section 13-1401.
- 7 (ii) Oral sexual contact as defined in section 13-1401.
- 8 (iii) Sexual intercourse as defined in section 13-1401.
- 9 (iv) Bestiality as prescribed in section 13-1411.

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

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

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

16 29. "Protective supervision" means supervision that is ordered by
17 the juvenile court of children who are found to be dependent or
18 incorrigible.

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

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

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

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

33 (a) Seriously impairs mental faculties.
34 (b) Causes serious anxiety, depression, withdrawal or social
35 dysfunction behavior to the extent that the child suffers dysfunction that
36 requires treatment.

37 (c) Is the result of sexual abuse pursuant to section 13-1404,
38 sexual conduct with a minor pursuant to section 13-1405, sexual assault
39 pursuant to section 13-1406, molestation of a child pursuant to section
40 13-1410, child sex trafficking pursuant to section 13-3212, commercial
41 sexual exploitation of a minor pursuant to section 13-3552, sexual
42 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
43 section 13-3608.

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

1 (a) Creates a reasonable risk of death.
2 (b) Causes serious or permanent disfigurement.
3 (c) Causes significant physical pain.
4 (d) Causes serious impairment of health.
5 (e) Causes the loss or protracted impairment of an organ or limb.
6 (f) Is the result of sexual abuse pursuant to section 13-1404,
7 sexual conduct with a minor pursuant to section 13-1405, sexual assault
8 pursuant to section 13-1406, molestation of a child pursuant to section
9 13-1410, child sex trafficking pursuant to section 13-3212, commercial
10 sexual exploitation of a minor pursuant to section 13-3552, sexual
11 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
12 section 13-3608.

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

18 36. "Standardized hotline assessment tool" means any written tool
19 used to make a determination that the allegation of abuse or neglect that
20 is the subject of a report received pursuant to section 8-455 involves
21 conduct that warrants investigation by the department pursuant to section
22 8-456 or 8-471.

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

29 Sec. 2. Section 8-201.01, Arizona Revised Statutes, is amended to
30 read:

31 8-201.01. Prohibitions

32 A. Notwithstanding any other provision of this chapter or chapter
33 4, articles 8, 9, 10, 11, 12, 13 and 14 of this title:

34 1. A child who in good faith is being furnished Christian Science
35 treatment by a duly accredited practitioner shall not, for that reason
36 alone, be considered to be an abused, neglected or dependent child.

37 2. A child whose parent, guardian or custodian refuses to put the
38 child on a psychiatric medication or questions the use of a psychiatric
39 medication shall not be considered to be an abused, neglected or dependent
40 child for that reason alone.

41 B. A parent may not be considered as having abused, neglected or
42 abandoned or BE charged with abuse, neglect or abandonment of a
43 biological, foster or adoptive child solely for seeking inpatient
44 treatment or an out-of-home placement if the child's behavioral health
45 needs pose a risk to the safety and welfare of the family.

1 C. A parent may not be considered as having abused or neglected or
2 BE charged with abuse or neglect of a child solely for bringing into the
3 home a biological, foster or adoptive child whose behavioral health needs
4 pose a risk to the safety and welfare of the family.

5 D. A PARENT, GUARDIAN OR CUSTODIAN MAY NOT BE CONSIDERED AS HAVING
6 NEGLECTED A CHILD IF THE PARENT, GUARDIAN OR CUSTODIAN IS UNABLE TO
7 PROVIDE THE CHILD WITH SUPERVISION, FOOD, CLOTHING, SHELTER OR MEDICAL
8 CARE SOLELY DUE TO A LACK OF FINANCIAL RESOURCES AVAILABLE TO THE PARENT,
9 GUARDIAN OR CUSTODIAN.