

TITLE 21. CHILD SAFETY

CHAPTER 4. DEPARTMENT OF CHILD SAFETY – RESPONSE TO REPORTS

Authority: A.R.S. § 8-453(A)(5)

Editor's Note: Chapter 4 contains rules which were exempt from the regular rulemaking process under Laws 2014, 2nd Special Session, Ch. 1, Sec. 158. The law required the Department to post on its website proposed exempt rulemakings for a minimum of 30 days, at which time the public could provide written comments. In addition, at least two public hearings were held prior to the filing of the final exempt rules. Because the Department solicited comments on its proposed exempt rules, the rules filed with the Office of the Secretary of State are considered final exempt rules (Supp. 15-4).

ARTICLE 1. INVESTIGATIONS

Article 1, consisting of Sections R21-4-101 through R21-4-108, made by final exempt rulemaking at 21 A.A.R. 3252, effective January 26, 2016 (Supp. 15-4).

Section

R21-4-101.	Definitions
R21-4-102.	Response Times
R21-4-103.	Methods of Investigation
R21-4-104.	Coordination With Law Enforcement
R21-4-105.	Investigation Findings; Required Documentation
R21-4-106.	Ongoing Services; Case Closure
R21-4-107.	Procedures for Temporary Custody
R21-4-108.	Quality Assurance

ARTICLE 1. INVESTIGATIONS

R21-4-101. Definitions

The definitions in A.R.S. §§ 8-101, 8-201, 8-455, 8-501, 8-531, and 8-801, and R21-3-101 apply in this Chapter.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 3252, effective January 26, 2016 (Supp. 15-4).

R21-4-102. Response Times

The DCS Investigator shall respond to the DCS report as required under R21-3-203.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 3252, effective January 26, 2016 (Supp. 15-4).

R21-4-103. Methods of Investigation

A. DCS shall investigate or respond to each DCS Report by interviewing or personally observing the alleged child victim, interviewing other children and individuals, reviewing documents, and using other accepted investigative techniques, as necessary, to gather sufficient information to:

1. Determine whether the child subject of the report is currently safe or unsafe;
2. Support or refute the allegation of abuse or neglect;
3. Determine the name, age, and condition of other children in the home; and
4. Determine whether child safety services are needed.

B. DCS shall do the following to investigate each DCS report unless one or more of the circumstances listed in subsection (C) exist:

1. Contact the reporting source;
2. Review prior DCS Reports concerning the alleged child victim;
3. Review prior DCS Reports concerning the alleged perpetrator;
4. Interview or facilitate the interview of the alleged child victim or personally observe the alleged child victim;
5. Interview the alleged perpetrator;
6. Interview all other adult household members and verbal children in the home who may have relevant information;

7. Review available court orders that restrict contact with the child by a parent or other person in the home; and
8. Use additional investigative methods based on the factual circumstance of the case.

C. If during the course of an investigation one or more of the following circumstances exists, DCS is not required to take all of the investigative actions otherwise required by this section:

1. The family exercises their right not to cooperate under A.R.S. § 8-803 or is unwilling or unable to cooperate;
2. Other persons who may have relevant information are unwilling or unable to cooperate;
3. The alleged victim is currently over the age of 18 years and the alleged perpetrator has no access to the other children in the household;
4. The alleged child victim is deceased and no surviving child resides in the household;
5. The alleged perpetrator resides outside Arizona and there is no indication or information that the alleged child victim or the other children in the household are currently being abused or neglected;
6. The alleged abuse or neglect occurred more than three years ago and there is no indication or information that the alleged child victim or the other children in the household are currently being abused or neglected;
7. The alleged child victim or the child victim's family cannot be located after DCS has made diligent efforts to locate;
8. A law enforcement agency has investigated the specific allegations contained in the report and the Department has determined that the child is currently safe;
9. A law enforcement or prosecutorial agency requests that the DCS Investigator not contact the alleged perpetrator or other persons with relevant information; or
10. A federal or state law or court order prohibits or restricts DCS from fully investigating the report.

D. If during the course of an investigation the DCS Investigator gathers sufficient information to determine that the child is not a victim of abuse or neglect, the DCS Investigator may close the investigation.

E. A DCS Investigator shall collaborate with law enforcement when applicable.

F. A DCS Investigator may interview a child without the prior written consent of the parent, guardian, or custodian of the child as set forth in A.R.S. §§ 8-802 and 8-471.

G. A DCS Investigator may exclude a parent, guardian, custodian, household member, or any other individual from being present during an interview with the alleged victim, the alleged victim's siblings, or other children residing in the alleged victim's household.

H. If a DCS Investigator discovers evidence of other incidents of abuse or neglect that are not contained in the DCS Report, the DCS Investigator shall make a report to the Hotline regarding those incidents.

I. A DCS Investigator who is not assigned to OCWI may investigate a DCS Report containing criminal conduct allegations, as necessary. A DCS Investigator not assigned to OCWI will

receive advanced training regarding joint investigation protocol per A.R.S. § 8-817 and forensic interview training as a prerequisite to investigating criminal conduct allegations. A DCS Investigator not assigned to OCWI should receive training consistent with A.R.S. § 8-471(D) if investigating criminal conduct allegations.

- J.** If an alleged child victim resides outside the Department's jurisdiction, the Department shall coordinate with the appropriate child protection agency in the jurisdiction where the child is located.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 3252, effective January 26, 2016 (Supp. 15-4).

R21-4-104. Coordination With Law Enforcement

- A.** In DCS Reports containing a criminal conduct allegation, a DCS Investigator shall coordinate with law enforcement pursuant to the applicable Joint Investigative Protocol. In DCS Reports that do not contain a criminal conduct allegation, a DCS Investigator shall coordinate with law enforcement as appropriate.
- B.** When a DCS Investigator investigates a DCS Report containing allegations of criminal conduct across jurisdictions, the DCS Investigator shall follow the Joint Investigative Protocol of the jurisdiction where the lead investigative agency is located.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 3252, effective January 26, 2016 (Supp. 15-4).

R21-4-105. Investigation Findings; Required Documentation

- A.** After completing an investigation, the DCS Investigator or Child Safety Specialist shall propose substantiation if there is probable cause to believe a child was abused or neglected or, if not, shall unsubstantiate the allegation.
- B.** A DCS Investigator or Child Safety Specialist shall document the finding and the reason in the case record.
- C.** A DCS Supervisor shall review the proposed finding and shall notify PSRT of a proposed substantiation.
- D.** DCS shall provide the parent, guardian, or custodian written notice of the outcome of the investigation.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 3252, effective January 26, 2016 (Supp. 15-4).

R21-4-106. Ongoing Services; Case Closure

A DCS Investigator shall close a case if the investigation determines the child or children are not in need of child safety services, whether or not the allegations are substantiated or unsubstantiated.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 3252, effective January 26, 2016 (Supp. 15-4).

R21-4-107. Procedures for Temporary Custody

- A.** Using a uniform safety and risk assessment tool, a DCS Investigator shall determine whether the child can remain safely in the home or needs to be taken into temporary custody of the Department.
- B.** Before taking temporary custody of a child, the Department shall consider whether the Department may:
1. Help the family obtain resources such as emergency food, shelter, clothing, or utilities, so that the child may safely remain in the home;
 2. Enter into an agreement with the child's parent, guardian, or custodian that provides for the alleged abuser to leave the home and for remaining family members to protect the child;
 3. Help the protective parent, guardian, or custodian and the child leave the home of the alleged abuser; and
 4. Place the child in a voluntary placement agreement as provided in A.R.S. § 8-806.
- C.** A DCS Investigator shall submit the reasons for temporary custody and the supporting information to a DCS Supervisor and obtain approval from the DCS Supervisor prior to taking temporary custody of a child, except as provided in A.R.S. § 8-822.
- D.** A DCS Investigator may take a child into temporary custody for a period of not more than 12 hours to have the child examined by a medical doctor or psychologist, if the circumstances indicate that there is reasonable likelihood to believe that a child has suffered serious physical or emotional harm as provided in A.R.S. § 8-821.
- E.** Under A.R.S. § 8-515.05, a DCS Investigator may remove a foster child from an out-of-home placement on an emergency basis to protect the child from harm or risk of harm without prior notification of the Department's intent to remove.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 3252, effective January 26, 2016 (Supp. 15-4).

R21-4-108. Quality Assurance

DCS shall conduct regular reviews of responses to reports to verify that investigations are properly conducted and procedures for temporary custody are followed.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 3252, effective January 26, 2016 (Supp. 15-4).