



# ARIZONA DEPARTMENT of CHILD SAFETY

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An investigation always results in a finding. These findings include the following:

- Proposed Substantiated
- Proposed Substantiated Pending Dependency Adjudication
- Proposed Substantiated Perpetrator Deceased
- Proposed Substantiated Perpetrator Unknown
- Unable to Locate
- Unsubstantiated

## Protective Services Review Team Investigation Allegation Guidelines

### Information Needed for a Proposed Substantiated Finding of Abuse

In order for there to be a “proposed substantiated” finding of abuse, the event must be the result of a behavior by someone who had “care, custody and control” of the child.”

When the DCS Specialist completes an investigation and prepares a “proposed substantiated” finding, the information must include the following:

- Timeframe/Date the abuse occurred;
- Who committed the abuse;
- Child victim’s name;
- Details of how the child was abused and/or neglected; and
- When the abuse occurred.

### Information Needed for a Proposed Substantiated Finding of Neglect

In order for there to be a “proposed substantiated” finding of neglect, the event must be the result of a behavior by a parent, guardian, or custodian. A “custodian” means a person, other than a parent or legal guardian, who stands in loco parentis (in the place of a parent) to the child or a person to whom legal custody of the child has been given by order of the juvenile court.

When the DCS Specialist completes an investigation and prepares a “proposed substantiated” finding, the information must include the following:

- Timeframe/Date the neglect occurred
- Who committed the abuse and/or neglect;
- Child victim’s name;

### Details of how the child was neglected; an:

- What evidence supports the finding substantial risk of harm; and
- A description of the substantial risk of harm.

### Proposing Dependency Findings

When proposing dependency findings, ensure the following is completed:

- A finding shall be entered for each parent or guardian and each victim named in the petition.
- After investigation findings shall be added if the applicable findings have not already been entered.
- PSRT shall enter the substantiated finding if a child is an adjudicated dependent based upon an allegation of abuse and/or neglect contained in the petition.
- A standard “Proposed Substantiated” finding may be entered if there is another alleged perpetrator not mentioned in the dependency petition.

For more information on finding types, see [Investigation Allegation Findings](#), of the DCS policy manual and the [Investigation Finding Definitions](#) field resource guide.

**Abuse Tips:**

- Circumstantial evidence of the alleged perpetrator's knowledge may include the presence of drugs, drug equipment or paraphernalia, or persistent noxious odor, or purchasing of a drug from the structure or vehicle, or observation of volatile, toxic or flammable chemicals used for manufacturing a dangerous drug.
- If a child did not suffer an injury from the exposure to dangerous drugs, consider proposing to substantiate neglect.

**Dependency Findings Substantiated vs. Unsubstantiated**

The pending dependency adjudication (PDA) finding will be substantiated if the court makes a finding of abuse and/or neglect based off the dependency or severance petition.

The proposed substantiated pending dependency adjudication (PDA) finding will be unsubstantiated if a child is adjudicated dependent for a reason other than abuse and/or neglect, or the dependency is dismissed prior to adjudication. When this occurs:

- PSRT will email the DCS Specialist, Program Supervisor and Program Manager to notify them that the PDA finding has been unsubstantiated;
- The DCS Specialist may enter an after investigation finding of proposed substantiated at this point unless the court made a specific finding that the dependency was based on the child's behaviors or is not the result of abuse and/or neglect;
- The after investigation finding must include a new finding statement and must meet the statutory definition of neglect and/or abuse.

**Abuse vs. Neglect****Abuse ~ A.R.S. § 8-201(2)**

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

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

**Emotional Abuse**

In order for the DCS Specialist to propose to substantiate a finding of emotional abuse, there must be a diagnosis by a physician, psychiatrist, or psychologist of serious emotional damage as evidenced by one of the following in the child:

- severe anxiety;
- depression, withdrawal; or
- untoward aggressive behavior, AND
- that this condition was caused by the acts or omissions of the parent, legal guardian, custodian, or other household member.

**Sex Related Forms of Abuse**

When the DCS Specialist documents that the parent, guardian, or custodian engaged in any of the following activities with the child, the DCS Specialist can propose to substantiate one or more of the following sex related forms of abuse:

- Sexual abuse;
- Sexual conduct with a minor;
- Sexual assault;
- Molestation of a child;
- Commercial sexual exploitation of a minor;
- Sexual exploitation of a minor;
- Incest; and/or
- Child prostitution.

**Neglect Tips:**

- In determining whether to propose to substantiate neglect, consideration must be given to an overall assessment of the parent, guardian, or custodian, including substance abuse.
- Propose to substantiate when a thorough assessment of safety and risk factors associated with the home environment and parental capacity indicates that the parent, guardian, or custodian is unable or unwilling to meet the child's need and that this failure creates a substantial risk of harm to the child's health or welfare.

**Exposure to Manufacturing of Dangerous Drug**

Physical injury resulting from exposure to the manufacturing of dangerous drug(s) documentation should include:

- evidence the alleged perpetrator knew/should have known that dangerous drugs were being manufactured in the structure or vehicle and allowed the child to enter or remain in said structure or vehicle; and
- medical documentation citing that the child has suffered physical injury as a result of this exposure and as the result of the parent, guardian, or custodian's action or inaction.

**Unreasonable Confinement**

Confinement is substantial when taking into account the totality of the circumstances constitutes abuse. The totality of the circumstances includes consideration of the child's age, developmental and cognitive functioning, and any special needs such as mental illness, behavioral health, physical limitations, length of confinement, and the ability to leave in the event of an emergency.

**Neglect A.R.S. § 8-201(25)**

The DCS Specialist should apply the definition to the allegation under investigation by including the following:

- The minimal level of supervision, food, clothing, shelter, or medical care needed for this child based on the child's age, cultural expectations, and developmental status.
- Whether the minimal level is/is not met by the parent, guardian or custodian. If the minimal level is not being met, explain:
  - how is it not being met; and
  - the substantial risk of harm that could/has resulted.

**It is not an act of neglect, see A.R.S. § 8-201.01.A, if:**

- the child suffers from a disability or chronic illness and services are unavailable to treat the child's disability or chronic illness; or
- the child, in good faith, is being furnished Christian Science treatment by a duly accredited practitioner for that reason alone, or the parent, guardian, or custodian refuses to put the child on a psychiatric medication or questions the use of such medication for that reason alone.

A parent may not be considered as having abused, neglected, or abandoned or charged with abuse, neglect, or abandonment of a biological, foster, or adoptive child solely for seeking inpatient treatment or an out-of-home placement if the child's behavioral health needs pose a risk to the safety and welfare of the family, pursuant to A.R.S. § 8-201.B.

A parent may not be considered as having abused or neglected or charged with abuse or neglect of a child solely for bringing into the home a biological, foster or adoptive child whose behavioral health needs pose a risk to the safety and welfare of the family, pursuant to A.R.S. § 8-201.C.

### **Substance Exposed Newborns (SEN) (under 30 days of age)**

The DCS Specialist must obtain birth records when determining prenatal substance exposure to a newborn infant (under 30 days of age) or an infant (from birth up to one year of age). A positive toxicology report or a positive meconium report, solely on their own, is not sufficient evidence to support a SEN substantiated finding.

A determination, made by a health professional that the newborn infant was exposed prenatally to a dangerous drug or substance and that exposure was not the result of a medical treatment administered to the mother or the newborn infant by a health professional, is required by statute.

In addition, the allegation of neglect shall be proposed for substantiation regardless of any effect, or lack of effects, to the child. This could include prenatal exposure before the mother knew she was pregnant. See A.R.S. § 13-3401 for the dangerous drug list.

### **Medical Marijuana Cards and SENs**

- The allegation of neglect shall be proposed substantiation if a health professional has determined prenatal substance exposure regardless of the alleged perpetrator being a medical marijuana cardholder.

### **SEN Determination by a Health Professional**

The determination must be documented by the health professional and be shall be based on one or more of the following:

- clinical indicators in the prenatal period including maternal or the newborn infant presentation;
- history of substance use or abuse;
- medical history; or
- results of a toxicology or other laboratory test on the mother or the newborn infant.

Health professionals include:

- Physicians/Surgeons;
- Physician Assistants acting under the direction of a physician/surgeon; and
- Licensed Social Workers.

### **Substance Exposed Infant (from birth up to one year of age)**

A substance exposed infant is demonstrably adversely affected by the mother's use of a dangerous drug, narcotic drug, or alcohol during pregnancy. A dangerous or narcotic drug has the same meaning as defined in A.R.S. § 13-3401.

Propose to substantiate neglect based on prenatal exposure of an infant from birth up to one year of age to a dangerous drug, narcotic drug, or alcohol when evidence confirms all of the following:

- The child is age one or younger;
- There is documentation that the mother used a dangerous drug, a narcotic drug, or alcohol during pregnancy. Documentation may include, but is not limited to, a medical diagnosis that the child was exposed to a dangerous drug, a narcotic drug or alcohol during pregnancy; other reliable written documentation of mother's use of a drug or alcohol during pregnancy; and/or reliable information from other persons with knowledge of the mother's use of the drug or alcohol;
- Identification of the adverse effects of the prenatal exposure; and
- A medical interpretation that the infant's symptoms are the result of the prenatal exposure.

**Note:**

FAE include a diagnosis of FAS, Alcohol related Neurodevelopmental disorder (ARND), or Alcohol Related Birth Defects (ARBD). If one of these three diagnoses is included in the medical documentation, consider the diagnosis equivalent to substantiation of FAE.

**Note:**

Explicit sexual material (pornography) does not include any depiction or description which, taken in context, possesses serious educational value for minors or which possesses serious literary, artistic, political, or scientific value.

**Fetal Alcohol Syndrome (FAS) or Fetal Alcohol Effects (FAE)**

Diagnosis by a health professional of an infant under one year of age with clinical findings consistent with FAE or FAS. Documentation must include a diagnosis by a health professional of FAS or FAE. The diagnosis shall be:

- A child under one year of age; and
- Supported by clinical findings indicating FAS or FAE.

**Deliberate exposure includes any of the following acts:**

- sexual conduct as defined by A.R.S. § 13-3551;
- sexual contact as defined by A.R.S. § 13-1401;
- oral sexual contact as defined by A.R.S. § 13-1401;
- sexual intercourse as defined by A.R.S. § 13-1401;
- bestiality as defined by A.R.S § 13-1411; and
- explicit sexual materials as defined by A.R.S § 13-3507.

**Reckless Disregard includes any of the following acts**

Excluding infants who sleep in the same room, committed by the child's parent, guardian, or custodian with reckless disregard as to whether the child is physically present:

- sexual contact as defined by A.R.S. § 13-1401;
- oral sexual contact as defined by A.R.S. § 13-1401;
- sexual intercourse as defined by A.R.S. § 13-1401; or
- bestiality as defined by A.R.S § 13-1411.

**Other types of findings that are not reviewed at PSRT include;**

- Proposed Substantiated Perpetrator Deceased
- Proposed Substantiated Perpetrator Unknown
- Unable to Locate
- Unsubstantiated
  - ▶ A finding statement providing the reason for the unsubstantiated finding must be entered. The statement should include why information gathered during the investigation did not support that an incident of abuse or neglect occurred based upon a probable cause standard.
  - ▶ The statement may include the following: police involvement and their outcome, opinions of medical professionals, forensic medical review, forensic interviews, observations and interview from alleged perpetrators, victims and witnesses, drug testing etc.

Refer to Policy for all finding types.



The following information should be included when creating an unsubstantiated statement

- **Police Involvement:**
  - ▶ Briefly describe police involvement and their conclusion to the case, i.e., (Did they decline to respond, did they take a report, were detectives involved, how did they close out their case, any arrests made and if so for what?)
- **Medical Opinions:**
  - ▶ Doctor's name and office/hospital
  - ▶ Doctor's written opinion regarding the injuries or non-injuries
- **Forensic Medical Review:**
  - ▶ Date and time of review
  - ▶ Doctor's name
  - ▶ Doctor's written opinion regarding the injuries or non-injuries
- **Forensic Interviews:**
  - ▶ Name of child interviewed
  - ▶ Date and time of interview
  - ▶ Brief synopsis of non-disclosure, i.e., Child did not disclose ever being sexually touched in anyway by the perp, Child denied being physically abused and or Child refused to talk.
- **Interviews of those pertinent to the case:**
  - ▶ Parents, guardians or custodians, witness statements regarding the allegations i.e. denied causing injury, was unaware of any injury
- **Drug Testing if pertinent**
  - ▶ Results of toxicology on all those tested
  - ▶ Any refusals to submit to any drug test