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REFERENCE TITLE: **juvenile offenders; prevention; definition**

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

SB 1109

Introduced by
Senator Smith

AN ACT

AMENDING SECTION 8-201, ARIZONA REVISED STATUTES; RELATING TO JUVENILE COURT.

(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 ~~shall constitute~~ CONSTITUTES prima facie evidence
12 of abandonment.

13 2. "Abuse" means the infliction or allowing of physical injury,
14 impairment of bodily function or disfigurement or the infliction of or
15 allowing another person to cause serious emotional damage as evidenced by
16 severe anxiety, depression, withdrawal or untoward aggressive behavior and
17 which emotional damage is diagnosed by a medical doctor or psychologist
18 pursuant to section 8-821 and ~~which~~ is caused by the acts or omissions of an
19 individual having care, custody and control of a child. Abuse shall include
20 inflicting or allowing sexual abuse pursuant to section 13-1404, sexual
21 conduct with a minor pursuant to section 13-1405, sexual assault pursuant to
22 section 13-1406, molestation of a child pursuant to section 13-1410,
23 commercial sexual exploitation of a minor pursuant to section 13-3552, sexual
24 exploitation of a minor pursuant to section 13-3553, incest pursuant to
25 section 13-3608 or child prostitution pursuant to section 13-3212.

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

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

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

32 6. "Child", "youth" or "juvenile" means an individual who is under the
33 age of eighteen years.

34 7. "Complaint" means a written statement of the essential facts
35 constituting a public offense that is any of the following:

36 (a) Made on an oath before a judge or commissioner of the superior
37 court or an authorized juvenile hearing officer.

38 (b) Made pursuant to section 13-3903.

39 (c) Accompanied by an affidavit of a law enforcement officer or
40 employee that swears on information and belief to the accuracy of the
41 complaint pursuant to section 13-4261.

42 8. "Custodian" means a person, other than a parent or legal guardian,
43 who stands in loco parentis to the child or a person to whom legal custody of
44 the child has been given by order of the juvenile court.

1 9. "Delinquency hearing" means a proceeding in the juvenile court to
2 determine whether a juvenile has committed a specific delinquent act as set
3 forth in a petition.

4 10. "Delinquent act" means an act by a juvenile ~~which~~ THAT if committed
5 by an adult would be a criminal offense or a petty offense, a violation of
6 any law of this state, or of another state if the act occurred in that state,
7 or a law of the United States, or a violation of any law ~~which~~ THAT can only
8 be violated by a minor and ~~which~~ THAT has been designated as a delinquent
9 offense, or any ordinance of a city, county or political subdivision of this
10 state defining crime. Delinquent act does not include an offense under
11 section 13-501, subsection A or B if the offense is filed in adult
12 court. Any juvenile who is prosecuted as an adult or who is remanded for
13 prosecution as an adult shall not be adjudicated as a delinquent juvenile for
14 the same offense.

15 11. "Delinquent juvenile" means a child who is adjudicated to have
16 committed a delinquent act.

17 12. "Department" means the department of economic security.

18 13. "Dependent child":

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

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

23 (ii) Destitute or who is not provided with the necessities of life,
24 including adequate food, clothing, shelter or medical care, or whose home is
25 unfit by reason of abuse, neglect, cruelty or depravity by a parent, a
26 guardian, or any other person having custody or care of the child.

27 (iii) Under the age of eight years and who is found to have committed
28 an act that would result in adjudication as a delinquent juvenile or
29 incorrigible child if committed by an older juvenile or child.

30 (iv) Incompetent or not restorable to competency and who is alleged to
31 have committed a serious offense as defined in section 13-604.

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

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

40 15. "Incorrigible child" means a child who:

41 (a) Is adjudicated as a child who refuses to obey the reasonable and
42 proper orders or directions of a parent, guardian or custodian and who is
43 beyond the control of ~~such~~ THAT person.

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

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

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

5 (e) Commits any act constituting an offense ~~which~~ THAT can only be
6 committed by a minor and ~~which~~ THAT is not designated as a delinquent act.

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

9 16. "Independent living program" includes a residential program with
10 supervision of less than twenty-four hours a day.

11 17. "Juvenile court" means the juvenile division of the superior court
12 when exercising its jurisdiction over children in any proceeding relating to
13 delinquency, dependency or incorrigibility.

14 18. "Law enforcement officer" means a peace officer, sheriff, deputy
15 sheriff, municipal police officer or constable.

16 19. "Medical director of a mental health agency" means a psychiatrist,
17 or licensed physician experienced in psychiatric matters, who is designated
18 in writing by the governing body of the agency as the person in charge of the
19 medical services of the agency, or a psychiatrist designated by the governing
20 body to act for the director. The term includes the superintendent of the
21 state hospital.

22 20. "Mental health agency" means any private or public facility ~~which~~
23 THAT is licensed by this state as a mental health treatment agency, a
24 psychiatric hospital, a psychiatric unit of a general hospital or a
25 residential treatment center for emotionally disturbed children and ~~which~~
26 ~~utilizes~~ THAT USES secure settings or mechanical restraints.

27 21. "Neglect" or "neglected" means the inability or unwillingness of a
28 parent, guardian or custodian of a child to provide that child with
29 supervision, food, clothing, shelter or medical care if that inability or
30 unwillingness causes substantial risk of harm to the child's health or
31 welfare, except if the inability of a parent or guardian to provide services
32 to meet the needs of a child with a disability or chronic illness is solely
33 the result of the unavailability of reasonable services.

34 22. "Petition" means a written statement of the essential facts that
35 allege delinquency, incorrigibility or dependency.

36 23. "PREVENTION" MEANS THE CREATION OF CONDITIONS, OPPORTUNITIES AND
37 EXPERIENCES THAT ENCOURAGE AND DEVELOP HEALTHY, SELF-SUFFICIENT CHILDREN AND
38 THAT OCCUR BEFORE THE ONSET OF PROBLEMS.

39 ~~23.~~ 24. "Protective supervision" means supervision THAT IS ordered by
40 the juvenile court of children who are found to be dependent or incorrigible.

41 ~~24.~~ 25. "Referral" means a report that is submitted to the juvenile
42 court and that alleges that a child is dependent or incorrigible or that a
43 juvenile has committed a delinquent or criminal act.

1 ~~25.~~ 26. "Secure care" means confinement in a facility that is
2 completely surrounded by a locked and physically secure barrier with
3 restricted ingress and egress.

4 ~~26.~~ 27. "Shelter care" means the temporary care of a child in any
5 public or private facility or home that is licensed by this state and that
6 offers a physically nonsecure environment that is characterized by the
7 absence of physically restricting construction or hardware and that provides
8 the child access to the surrounding community.