

**ARIZONA DEPARTMENT OF CHILD SAFETY**

**Five-Year-Review Report**

**Title 21. Child Safety**

**Chapter 1. Administration**

**Article 1. Release of Department Information**

**June 2022**

**1. Authorization of the rule by existing statutes**

General Statutory Authority: A.R.S. § 8-453(A)(5)

Specific Statutory Authority: A.R.S. § § 8-807 and 8-807.01

**2. The objective of each rule:**

Rule	Objective
R21-1-101. Definitions	The objective of this rule is to promote and facilitate uniform understanding of terminology used by the Department in this Article.
R21-1-102. Scope and Application	The purpose of this rule is to clarify the scope of matters covered by Article 1.
R21-1-103. Procedures for Requesting DCS Information	The objective of this rule is to explain the procedures for requesting DCS information pursuant to A.R.S. § 8-807.
R21-1-104. Procedures for Processing a Request for DCS Information	The purpose of this rule is to explain the procedures the Department uses to process a request for DCS information.
R21-1-105. Procedures for Processing a Request for DCS Information from a Person or Entity Providing Services in Official Capacity	The purpose of this rule is to explain the procedures the Department uses to process a request for DCS information when the request is from a person or entity providing services in an official capacity.
R21-1-106. Release of Summary DCS Information to a Person Who Reported Suspected Child Abuse and Neglect	The objective of this rule is to explain the procedures that the Department uses to release DCS information to a person who reported child abuse or neglect.

R21-1-107. Release of DCS information for a Research or Evaluation Project	The objective of this rule is to explain the Department's policy on releasing DCS information for a research or evaluation project.
R21-1-108. Release of DCS Information to a Legislator or a Committee of the Legislature, or Another Person that Provides Oversight	The objective of this rule is to explain the Department's policy on releasing DCS information to a legislator or another person that provides oversight.
R21-1-109. Release of DCS Information in a Case of Child Abuse, Abandonment, or Neglect that has Resulted in a Fatality or Near Fatality	The objective of this rule is to explain the Department's policy on releasing DCS information in a case of child abuse, abandonment, or neglect that has resulted in a fatality or near fatality.
R21-1-110. Fees	The objective of this rule is to explain the Department's process and policy regarding charging of fees for copies of the requested DCS information.

3. **Are the rules effective in achieving their objectives?** Yes \_\_\_ No X

Rule	Explanation
R21-1-101 Definitions	R21-1-101(23) definition of "workday" indicates that mandatory state furlough days are excluded from the "workday" definition. This definition is not effective because whether or not the state mandates furlough days, the DCS office remains open.

4. **Are the rules consistent with other rules and statutes?** Yes \_\_\_ No X

Rule	Explanation
R21-1-108 Release of DCS Information to a Legislator or a Committee of the Legislature or Another Person that Provides Oversight	In 2021, with SB1225 the 55th Legislature, First Regular Session amended A.R.S. § 8-807. The statute amendment allows the Presiding Officer to also authorize a legislative staff member to attend with the legislator any meeting to review the file. Per the amendment, the staff member who attends must also sign the same Acknowledgement of Confidentiality form as the legislator. The rule needs to be updated to include these amendments.

R21-1-103. Procedures for Requesting DCS Information	The rules in this Section should also reference that request for DCS Information and DCS process must meet the requirements set in A.R.S. § § 8-807.01 and 8-502. This Section needs to be updated to provide clarification to the expectations in these statutes.
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5. **Are the rules enforced as written?** Yes \_\_\_ No X

Rule	Explanation
R21-1-101 Definitions	As explained in #3 of this report, the definition of "workday" is not effective as it excludes state mandated furlough days from being considered a workday. State furlough days have not been mandated since the enactment of these rules and has not been an issue. However, the Department proposes to conduct rulemaking to correct this definition.
R21-1-108 Release of DCS Information to a Legislator or a Committee of the Legislature or Another Person that Provides Oversight	As explained in #4 of this report, A.R.S. § 8-807 was amended in 2021. The Department currently follows statutory requirements and proposes to conduct rulemaking to update the rules.

6. **Are the rules clear, concise, and understandable?** Yes \_\_\_ No X

Rule	Explanation
R21-1-101 Definitions	R21-1-101(23): As explained in #3 and #5 of this report, the definition of "workday" needs to be updated to remove the word "furlough" from the definition.
R21-1-103 Procedures for Requesting DCS Information	As explained in #4 of this report, this Section needs to include reference to A.R.S. § § 8-807.01 and 8-502 as requests and release of DCS Information must also comply with these statutes. Additionally, R21-1-103 (D)(2)(e) indicates that this Section does not apply to "A person that provides oversight to the Department." R21-1-103(D)(2)(e) is not clear, concise, or understandable as it does not define "person or entity that provides oversight."
R21-1-108 Release of DCS Information to a Legislator or a Committee of the Legislature or Another Person that Provides Oversight	As explained in #4 of this report, A.R.S. § 8-807 was amended in 2021 to specify that the Presiding Officer may authorize a legislative staff member to attend any meeting with the legislator to review the case file. Additionally, the rule needs to be updated to reflect that an authorized legislative staff member must also sign the Department's Acknowledgement of Confidentiality form. The Department intends to update rules to align the rule with the statutory amendments.

7. **Has the agency received written criticisms of the rules within the last five years?** Yes \_\_\_ No X

8. **Economic, small business, and consumer impact comparison:**

The previous 5 Year Review Report stated that the Department did not charge a copying fee for requested records. The Department has not changed its practice. It still does not charge a copying fee for requested records.

R21-1-110 states that the Department may charge a fee for copying. The rule states that if a copying fee is charged the rates will be posted on the DCS website. Currently, there are no copying rates posted on the DCS website. DCS has not charged a copying fee to requesters.

A significant number of requests for DCS information involve a request for a redacted copy of a DCS record from individuals about whom a report was made or about case participants. From July 2020 through June 2021, DCS received 1,649 requests from parents, youth, and case participants for redacted DCS records from individuals about whom the report was made or about case participants. During this same time-frame, DCS received 3,259 requests from courts, non-dependency attorneys, and other agencies for redacted DCS records from individuals about whom the report was made or about case participants. Additionally, during this same time-frame, DCS provided 3,221 redacted records to parent and legal guardian attorneys. The DCS did not charge a copy fee for the release of these redacted documents.

From July 2020 through June 2021, the DCS received 313 DCS public records and general information requests for DCS information from the media and the public. Also, during July 2020 through June 2021, DCS processed 71 public records and information requests pertaining to data, policy, training documents and other information in relation to DCS process and procedures. The DCS did not impose a copy fee for these records.

DCS has several units or staff responsible for responding to the various types of requests addressed in this Article. However, the majority of requests are responded to by the Centralized Records Coordination Unit (CRCU) unit within the Department. The Department budgeted \$2.5M in FY22 for the services provided by CRCU which is funded by federal and state funds.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes \_\_\_ No X

10. **Has the agency completed the course of action indicated in the agency's previous five-year-review report?**

The Department of Child Safety did not propose any rulemaking activity in the Five-Year-Review Report completed in 2017.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

The benefit of the current rules is that they provide the public and clients (previous and current) information and expectations on how to request DCS Information. The rule also outlines the process DCS follows in responding to these types of requests. Though the rules cover the ability to charge a fee for providing copies of DCS Information, DCS has not charged the public and clients any fees for these types of requests. DCS has determined that creating an internal process to charge a fee for providing these services is not cost effective at this time. Not only does the process outlined in these rules tell the public of expectations, the process is set to help reduce requests without sufficient information to process the request and aids the Department in following a process to ensure confidentiality is kept.

12. **Are the rules more stringent than corresponding federal laws?** Yes \_\_\_ No X

Federal laws 42 U.S.C. Ch. 67, §§ 5101 et seq., 42 U.S.C. Ch. 7, Subchapters IV/Part B and IV/Part E, and 42 U.S.C. § 670 et seq. apply to this rulemaking. The rules are not more stringent than federal law.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

The Department has determined that A.R.S. § 41-1037 does not apply to these rules. The rules in this Article do not require the issuance of a regulatory permit, license, or agency authorization.

14. **Proposed course of action**

The Department has reviewed the current rules and plans to request a moratorium exemption from the Governor's Office in accordance with Executive Order 2022-01 and to amend rules to address the concerns identified in this five-year-review report. The Department plans to complete and submit rulemaking for Council's review by April 28, 2023.