

**ARIZONA DEPARTMENT OF CHILD SAFETY**

**Five-Year-Review Report**

**Title 21. Child Safety**

**Chapter 5. Permanency and Support Services**

**Article 2. Independent Living and Transitional Independent Living Programs**

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

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

Specific Statutory Authority: A.R.S. §§ 8-521, 8-453(A)(9)(a)(iii), 8-521.01, 8-453(A)(18)

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

Rule	Objective
R21-5-201. Definitions	The objective of this rule is to provide uniform understanding of terminology used by the Department.
R21-5-202. Provision of Services	The objective of this rule is to inform of the availability of Independent Living services, Independent Living Subsidy, and Transitional Independent Living Program provided by the Department to eligible youth.
R21-5-203. Denial of Services	The objective of this rule is to explain that services may be denied if eligibility requirements are not met.
R21-5-204. Eligibility	The objective of this rule is to establish the eligibility requirements for Independent Living Services, Independent Living Subsidy, and the Transitional Independent Living Program.
R21-5-205. Services for Foster Youth 18 through 20 Years of Age in Out-of-home Care	The objective of this rule is to provide information and criteria on services the Department may provide to youth ages 18 through 20 years.
R21-5-206. Transitional Independent Living Program	The objective of this rule is to describe the Transitional Independent Living Program including the assistance the Department may provide and the information the eligible youth is required to provide.
R21-5-207. Re- entry Into Out-of- home Care	The objective of this rule is to state the Department's process upon receipt of a request from a youth to re-enter out-of-home care with the Department.

R21-5-208. Termination of Services	The objective of this rule is to establish the Department's process when terminating or denying services and supports under the Independent Living Services, Transitional Independent Living Program, or Independent Living Subsidy services.
R21-5-209. Grievance Process	The objective of this rule is to provide information on the grievance process.

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

*If not, please identify the rule(s) that is not effective and provide an explanation for why the rule(s) is not effective.*

Rule	Explanation

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

*If not, please identify the rule(s) that is not consistent. Also, provide an explanation and identify the provisions that are not consistent with the rule.*

Rule	Explanation

5. **Are the rules enforced as written?** Yes X No \_\_\_

*If not, please identify the rule(s) that is not enforced as written and provide an explanation of the issues with enforcement. In addition, include the agency's proposal for resolving the issue.*

Rule	Explanation

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

*If not, please identify the rule(s) that is not clear, concise, or understandable and provide an explanation as to how the agency plans to amend the rule(s) to improve clarity, conciseness, and understandability.*

Rule	Explanation

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

The Department has not received written criticisms of the rules in this Chapter since they were finalized under exempt rulemaking in January 2016. During the rulemaking activities in 2015, public comments were received at the public hearings, from the on-line surveys, and in the U.S. Mail. Comments received included requests to add exceptions to the school/work requirements for young adults who are adopting children, having children or have a medical or behavioral health condition or developmental disability that make it difficult to participate in the

school/work requirement; clarification and timeframes of the Department's responsibility for re-entry opportunities for eligible youth; inclusion of tribal references where applicable; timeframes for preparing an individual case plan; and additional detail in rule for the notice to youth of the denial or termination of services and the process to grieve or appeal these Department actions. The Department reviewed all written comments received on-line and in the U.S. Mail and incorporated comments where applicable in the final rule package in 2015.

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

The Department adopted the rules in Chapter 5 Article 2 under its own title (Title 21. Child Safety) in January 2016. There was no economic, small business, and consumer impact statements prepared as part of the exempt rulemaking. The rules under this Chapter and Article pertain to services and supports the Department provides children who are or were placed in out-of-home care and have reached an age where the Department provides important services and support to assist foster youth transition to adulthood. The purpose of these rules is to provide information about the services available, eligibility criteria, and outlines the process for when a service is being denied or terminated.

Services and support provided to the youth includes individual assistance in obtaining or removing barriers to getting a high school diploma, enrollment in post-secondary education, career exploration, vocational training, job placement and retention, training and opportunities to practice daily living skills. Additionally, for eligible youth ages 18 through 20 years old, the Department provides financial and housing assistance, counseling, employment readiness and obtainment, education and other support services to complement their own efforts to achieve self-sufficiency. The Department does not charge a fee to eligible youth for their participation in these services. The Department contracts for transitional living support services.

Though the Department has some specialized units supporting these youth and young adults, it is not a statewide organizational structure; therefore, costs associated with providing these services and supports is not readily quantifiable. The Department does not anticipate allotting any new full-time employees or making changes to those currently allotted. There are no political subdivisions affected by these rules.

On December 31, 2017, there were 1,701 youths participating in these programs. Program services are funded through a combination of federal and state dollars. Federal dollars are awarded through the Chafee Program (formerly named the Chafee Foster Care Independence Program). \$5,138,520 was appropriated for the state of Arizona for FFY 2018. One of the services offered under this program is the Independent Living Subsidy or Maintenance. This subsidy is a monthly stipend to assist eligible youth with room and board costs while they pursue education and employment goals and is provided in lieu of any other foster care maintenance payment. In state fiscal year June 2017 to July 2018, the actual cost to provide Independent Living Subsidy was

\$3,744,470.00. In FY 2018, the average monthly number of youth receiving the Independent Living Subsidy was 499. The average monthly subsidy stipend for FY 2018 was \$625. Funds to provide the Independent Living Subsidy are appropriated annually and are a combination of federal and state funding.

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?**

This is the first review of the rules in Title 21, Chapter 5, Article 2. The rules in this Article were made by final exempt rulemaking at 21 A.A.R. 3255, December 18, 2015 and became effective January 24, 2016.

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 Department believes that the current rules pose the least burden and costs to the regulated person by these rules.

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

42 U.S.C. §§ 675 and 677. The rules are not more stringent than corresponding federal laws.

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. These rules 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 does not plan any rulemaking activity for these rules.

**ARIZONA DEPARTMENT OF CHILD SAFETY**

**Five-Year-Review Report**

**Title 21. Child Safety**

**Chapter 1. Department of Child Safety - Administration**

**Article 3. Appeals and Hearing Procedures**

**Article 5. Substantiation of Report Findings**

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

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

Specific Statutory Authority: A.R.S. §§ 8-145, 8-166, 8-506, 8-506.01, 8-521, 8-521.01, 8-811, 8-814

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

**Article 3. Appeals and Hearing Procedures**

Rule	Objective
R21-1-301. Definitions	The objective of this rule is to define the terms used in Article 3.
R21-1-302. Hearing Proceedings	The objective of this rule is to advise the public that pre-hearing and hearing proceedings are governed by the Arizona Revised Statute unless otherwise specified.
R21-1-303. Entitlement to a Hearing; Appealable and Not Appealable Actions	The objective of this rule is to advise of the opportunity for an applicant, licensee, or client to obtain a hearing to challenge an adverse action and to specify the actions that are not appealable.
R21-1-304. Computation of Time	The objective of this rule is to indicate how terms are being defined and used for the purposes of computation of time used in this Article. It clarifies how days are counted.
R21-1-305. Request for Hearing; Form;	The objective of this rule is to specify the time period and the formal and procedural requirement for filing an appeal, and the circumstances that will excuse the late filing of an appeal.

Time Limits; Pre-surreptions	
R21-1-306. Administration; Transmittal of Appeal	The objective of this rule is to establish the Department's time requirement to forward notification of appeals to OAH so that appeals can be processed without delay.
R21-1-307. Stay of Adverse Action Pending Appeal	The objective of this rule is to convey the general requirement that the Department will not carry out the adverse action until certain requirements are met and to specify under what circumstances an adverse action may be carried out before finality attaches to the adverse action notice.
R21-1-308. Hearings: Location; Notice; Time	The objective of this rule is to specify when and where hearings are scheduled after the Department has received a request to appeal and notification requirements of such hearings.
R21-1-309. Rescheduling a Hearing	The objective of this rule is to inform that an appellant may request a postponement or rescheduling of a hearing and advises of the procedures and timeframes for requesting a postponement or rescheduling of a hearing.
R21-1-310. Subpoenas	The objective of this rule is to explain when and how a party may request a subpoena.
R21-1-311. Parties' Rights	The objective of this rule is to inform parties to a hearing of their rights.
R21-1-312. Withdrawal of an Appeal	The objective of this rule is to establish the process for withdrawing a request for an appeal.
R21-1-313. Effect of the Decision	The objective of this rule is to inform that the Department's Director may opt to review and act upon the ALJ's decision and inform when a decision is effective.
R21-1-314. Judicial Review	The objective of this rule is to indicate that parties have a right to judicial review of an adverse final administrative decision and clarify the procedures that must be followed.

**Article 5. Substantiation of Report Findings**

Rule	Objective
R21-1-501. Definitions	The objective of this rule is to define the terms used in Article 5.
R21-1-502. Initial Notification Letter	The objective of this rule is to advise of the information PSRT must notify an alleged perpetrator and specify the time period in which PSRT must send the notification.
R21-1-503. Time Frame to Request an Administrative Hearing	The objective of this rule is to specify the time period for requesting an administrative hearing. It informs of circumstances in which an untimely request will be considered.
R21-1-504. PSRT Review	The objective of this rule is to specify PSRT's actions upon receipt of a timely administrative hearing request and information to include when sending a hearing notice.
R21-1-505. Exceptions to Right to a Hearing	The objective of this rule is to specify the conditions in which an alleged perpetrator does not have the right to request an administrative hearing and a time period to provide pending court information.
R21-1-506. Dependency Adjudication	The objective of this rule is to specify a circumstance in which a person's name will be entered in the Central Registry.
R21-1-507. Director Review and Further Appeal after the Administrative Hearing	The objective of this rule is to inform of timeframe for the Department's Director to review the ALJ's decision and inform the perpetrator of their right to appeal an administrative decision.
R21-1-508. Entry into the Central Registry	The objective of this rule is to specify the conditions in which a person's name and substantiation finding is or is not entered in the Central Registry.

**3. Are the rules effective in achieving their objectives?**

Yes X No   

*If not, please identify the rule(s) that is not effective and provide an explanation for why the rule(s) is not effective.*

Rule	Explanation

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

*If not, please identify the rule(s) that is not consistent. Also, provide an explanation and identify the provisions that are not consistent with the rule.*

Rule	Explanation
R21-1-501 (2)	This rule is not consistent as it contains an outdated reference to A.R.S. § 8-811(L)(1). The rule needs to be updated to A.R.S. § 8-811 (N)(1).
R21-1-501 (11)	This rule is not consistent as it contains an outdated reference to A.R.S. § 8-201(24). The rule needs to be updated to A.R.S. § 8-201(25).
R21-1-305 (A)(2)	This rule is not consistent with A.R.S. § 8-506 (A). Statute indicates that a foster home applicant or holder of a license has 25 days after the mailing date of a notice of proposed denial, revocation or suspension whereas rule indicates a foster home license revocation has 25 days after the mailing of the adverse action notice. Rule should include denial or suspension.

5. **Are the rules enforced as written?** Yes \_\_\_ No X

*If not, please identify the rule(s) that is not enforced as written and provide an explanation of the issues with enforcement. In addition, include the agency's proposal for resolving the issue.*

Rule	Explanation
R21-1-502	Per R21-5-502 B, the Department must send an initial notification letter to the alleged perpetrators within 14 days after the investigation was completed. Due to the high volume of processed investigations in resolving the backlog of investigations, the Department has fallen behind in sending these letters in a timely manner. The Department is actively and diligently working to rectify this by shifting internal resources for assistance.

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

*If not, please identify the rule(s) that is not clear, concise, or understandable and provide an explanation as to how the agency plans to amend the rule(s) to improve clarity, conciseness, and understandability.*

Rule	Explanation

7. **Has the agency received written criticisms of the rules within the last five years?**

Yes \_\_\_ No X

The Department has not received written criticisms of the rules since the implementation of the rules, which became effective on November 30, 2015. During the rulemaking activities in 2015, the Department provided opportunities for the public to submit their comments. Public comments are summarized in the Notice of Final Exempt Rulemaking published on October 30, 2015, under Volume 21, Issue 44 of the Arizona Administrative Register.

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

**General**

The Department adopted the rules covered in this five-year-review under its own title (Title 21. Child Safety) in November 2015. The Department did not prepare an Economic Impact Statement for these Articles when the rules were initially made as the rules were exempt from formal rulemaking procedures. Below is an assessment of the actual economic, small business, and consumer impact of the rules.

The rules under Article 3 pertain to appeal and administrative hearing requests from applicants, licensees, or clients who dispute an adverse action. The rules under Article 5 pertain to actions taken when the Department of Child Safety is proposing to substantiate findings of abuse or neglect against an alleged perpetrator. The Department's Protective Services Review Team (PSRT) administers reviews and appeals related to the proposed substantiated findings of child abuse or neglect. The purpose of the rules includes notifying those affected by an adverse action taken by the Department of their rights to formally dispute such action and details what actions are not appealable and provides the process to follow in submitting their disputes. The rules also outline the Department's process upon receipt of a request of an appeal.

**Identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the rules.**

In addition to employees of the Department of Child Safety, the persons directly impacted by these rules are individuals who are applicants for licensure as an adoption agency, a child welfare agency, a foster home, or clients receiving services from the Department such as children receiving medical services from CMDP, receiving a subsidy, or youth receiving services through the Independent Living Program/Transitional Independent Living Program. Others affected are clients who have been

investigated on allegations of abuse or neglect and the Department proposes to substantiate allegation findings of abuse or neglect. The Department as well as applicants, licensees, and clients benefit from rules in Article 3 as the rules outline the rights to dispute an adverse action issued by the Department and outlines the Department's responsibilities. The Department as well as those investigated for allegations of child abuse or neglect benefit, from the rules in Article 5 as they outline the process when the Department is proposing to substantiate allegations of abuse or neglect and inform the alleged perpetrator of their rights to dispute the proposed substantiation finding.

The rules in Articles 3 and 5 have a positive economic impact because they explain to those affected by the rules of requirements and procedures for submitting a dispute to the Department of Child Safety when in receipt of an adverse action or a notice informing of a proposed substantiation of an allegation of child abuse or neglect.

### **Cost Benefit Analysis**

Cost bearers and beneficiaries from these rules includes: Child Welfare Agencies; foster care providers; children in care; clients; and the Department. The Department does not anticipate allotting any new full-time employees or making changes to those currently allotted. The Department only anticipates hiring employees to fill vacancies as they arise. There are no political subdivisions affected by these rules. The benefits to others includes that the rules clearly explain the rights of those affected by an adverse action and of those receiving a notice informing them of the Department's intent to substantiate a finding of abuse or neglect. The rules also informs others and the Department of the expectations of all parties.

### Article 3:

Rules are used by the Department to govern appeals and hearing procedures. There are no fees or other out-of-pocket costs to our clients associated with the filing of an appeal or participating in the hearing process. The cost to appellants is limited to their time and effort to file an appeal to an adverse action or time and attendance to a hearing.

The Department's organizational structure does not designate a specific unit to process and respond to appeals and hearings pertaining to Article 3. Instead responsibilities to process appeals and hearings are incorporated with other job responsibilities within the designed program unit. Program units impacted by these rules include: Comprehensive Medical and Dental Program (CMDP); Office of Licensing and Regulation (OLR); Adoption and Guardianship Subsidy; and Independent Living

Program/Transitional Independent Living Program. Due to the organizational structure and units involved in processing requests for appeals and hearings, such costs are not readily quantifiable. The following sections provide a qualitative analysis of the costs and benefits for each of the cost bearers and beneficiaries.

CMDP:

Pertaining to CMDP services or benefits for non-Title XIX and Title XXI DCS clients, the Department has not received any appeals or requests for administrative hearings since the implementation of these rules. Additionally, from 2015 to present time, CMDP has processed 39 claim disputes from service providers of which none were appealed. On average CMDP membership for non-Title 19 is approximately 550 DCS clients. CMDP currently has one Manager assigned to process requests for appeals and hearings; however, these responsibilities are incorporated with other job duties.

OLR:

From 2016 to 2017, OLR took 113 adverse actions against foster homes and child welfare agencies. There were no adverse actions taken against adoption agencies. In response to the adverse actions taken, OLR received 37 appeal and administrative hearing requests.

Child welfare agencies are licensed by the Department to provide residential group care, emergency shelter care or provide services as a placing agency. Child welfare agencies generally contract with the Department. As of February 28, 2018, 146 child welfare agencies maintain active licenses of which 142 are group homes/shelters and four hold a license as a child placing agency. Foster care providers (foster homes) are licensed by the Department to provide foster care, generally in a family setting. Foster care providers receive a set payment per child. As of January 2018, 4564 licensed foster care providers maintain active licenses. Additionally, as of February 28, 2018, 21 adoption agencies hold a license. OLR has assigned two staff members to process requests for appeals and hearings; however, the responsibilities to process requests for appeals and administrative hearings are incorporated with their other job duties.

Adoption Subsidy and Guardianship Subsidy:

Since the implementation of these rules, the Department has not received any appeals regarding adoption or guardianship subsidy. The subsidy unit has one Specialist and one Supervisor assigned to process appeal and hearing requests; however, responsibilities to process appeal and administrative requests are incorporated with other job duties.

Independent Living Program/Transitional Independent Living Program:

Since the implementation of these rules, the Independent Living Program/Transitional Independent Living Program has received six grievances and one administrative hearing request. Membership in programs vary day by day. On December 31, 2017, there were 1,701 youths participating in these programs. These youth programs have one staff member assigned to process appeal and hearing requests; however, responsibilities to process appeal and hearing requests are incorporated with other job duties.

Article 5:

Rules govern the Department's actions for substantiating an allegation of abuse or neglect and informing an alleged perpetrator of the process to request an Administrative Hearing. There is no fee or out-of-pocket cost to an alleged perpetrator for requesting a hearing. Those affected by a proposed substantiated finding benefit from the rules as the rules inform them of their due process rights.

During the calendar year 2016 (1/1/2016 to 12/31/2016), the Department processed 11,726 notices informing alleged perpetrators of their due process. In calendar year 2017 (1/1/2017 to 12/31/17), the Department processed 20,958 notices informing alleged perpetrators of their due process. Of these, the Department received 823 requests for appeal in 2016 and 814 requests for appeal in 2017. The Department also received 175 untimely appeal requests in 2016 and 159 untimely appeal requests in 2017. Additionally, PSRT processed the following appeals requested after the issue with ineligibility was resolved (R21-1-505): 16 in 2016 and 22 in 2017. Hearings assigned in 2016 were 232 and 140 in 2017.

The Department's Protective Services Review Team consists of 11 full time employees (FTE) and four temporary employees: one Manager, one Assistant Manager, four temporary Legal Assistants, two Administrative Assistants, and seven PSRT Reviewers. This team is responsible for administering reviews and appeals related to the proposed substantiated findings of child abuse or neglect, which includes sending notifications and processing appeal and hearing requests. The Department does not anticipate allotting any new full-time employees or making changes to those currently allotted. The Department only anticipates hiring employees to fill vacancies as they arise.

The table below displays staffing expenditures for State Fiscal Year (SFY) 2017. PSRT expenditures for staffing to accomplish its functions include FTE salaries, benefits, and the contracted temporary staff.

PSRT - State Fiscal Year 2017	
Expense Category	Amount
Salaries	\$467,151.18
Benefits	\$167,339.14
Contracted Temporary Employees	\$137,138.94
Total	\$771,629.26

**A general description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the rulemaking**

There is no known direct impact on private and public employment in businesses and political subdivisions of this state directly affected by these rules. The Office of Administrative Hearings is responsible for processing all the Department's requests for appeals and hearings.

**A statement of the probable impact of the rules on small business**

Identification of the small businesses subject to the rules

Small businesses subject to the rules in Article 3 may include applicants or licensees as foster care providers, child welfare agencies, and adoption agencies. There are no small businesses subject to the rules in Article 5.

The administrative and other costs required for compliance with the rules

There are no costs charged to child welfare agencies, adoption agencies, foster care providers, or clients for filing an appeal or requesting an administrative hearing.

A description of the methods that the agency may use to reduce the impact on small businesses

The Department is not proposing to amend the current rules under review. The impact on small businesses is positive as these rules inform applicants and licensees of their due process rights. It also informs them what to expect from the Department. There are no fees charged to appellants.

The probable costs and benefits to private persons and consumers who are directly affected by the rules

There are no costs associated with filing an appeal or hearing request. The benefits to private persons and consumers who are directly affected by the rules includes providing clear information regarding their rights to contest an adverse action or a proposed substantiation finding of abuse or neglect.

**A statement of the probable effect on state revenues**

There are no fees associated with these rules, the Department does not know of any direct or indirect effect of the rulemaking on state revenues.

**A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking**

The rules under review propose the least intrusive and least costly method of achieving the purpose in the existing rules.

**A description of any data on which the rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data.**

Not applicable.

**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?**

This is the first review of the rules for Chapter 1, Articles 3 and 5. The rules in these Articles became effective on November 30, 2015.

**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 Department believes the current rules pose the minimum cost and burden on businesses, the regulated public and on the general public.

**12. Are the rules more stringent than corresponding federal laws?**

Yes \_\_\_ No X

Federal laws 45 CFR 205.10; 45 CFR 147 et seq. apply to this rulemaking. The rules are not more stringent than corresponding federal laws.

**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 Articles 3 and 5 do not require the issuance of a regulatory permit, license, or agency authorization.

**14. Proposed course of action**

The Department proposes to update references to Arizona Revised Statutes and correct rule not consistent with statute prior to the next five-year review report.

**ARIZONA DEPARTMENT OF CHILD SAFETY**

**Five-Year-Review Report**

**Title 21. Child Safety**

**Chapter 3. Department of Child Safety - Centralized Intake Hotline**

**Article 1. Definitions**

**Article 2. Receipt and Screening of Communications**

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

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

Specific Statutory Authority: A.R.S. §§ 8-454 and 8-455

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

Article 1. Definitions

Rule	Objective
R21-3-101. Definitions	The objective of this rule is to promote and facilitate uniform understanding of terminology used by the Department.

Article 2. Receipt and Screening of Communications

Rule	Objective
R21-3-201. Receipt of Information; Centralized Intake Hotline	The objective of this rule is to inform of the Department's responsibility for having a Hotline available for the community to report, anonymously if requested, suspected child abuse or neglect. Additionally, it informs that it is the Department's responsibility to determine if the information gathered meets DCS report criteria.
R21-3-202. Preliminary Screening	The objective of this rule is to list allegations that on their own do not meet the criteria for a DCS report.
R21-3-203. Disposition of Communication	The objective of this rule is to differentiate between a DCS report and a non-report and provide information on what the Department does with non-report information received by the Hotline.
R21-3-204. Quality Assurance	The objective of this rule is to advise of the Department's responsibility to review non-report communications, received by the Hotline, on a weekly basis.

**3. Are the rules effective in achieving their objectives?**

Yes  X  No

4. **Are the rules consistent with other rules and statutes?** Yes X No \_\_\_
5. **Are the rules enforced as written?** Yes X No \_\_\_
6. **Are the rules clear, concise, and understandable?** Yes \_\_\_ No X

*If not, please identify the rule(s) that is not clear, concise, or understandable and provide an explanation as to how the agency plans to amend the rule(s) to improve clarity, conciseness, and understandability.*

Rule	Explanation
R21-3-202 Preliminary Screening	R21-3-202 (11) specifies that an unharmed newborn, seventy-two hours of age or younger, left with a safe haven provider does not, on its own, meet the criteria for a DCS Report. The Department wishes to amend the rules to clarify the conditions under which a newborn is determined to be unharmed. A newborn must be assessed by a medical professional subsequent to being left with a safe haven provider, and if found to be “substance exposed” or to have suffered abuse or neglect in some other manner, the information will be designated as meeting the criteria for a DCS Report and require an investigation.

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

The Department has not received written criticisms of the rules in this Chapter since they were finalized under exempt rulemaking in January 2016. In 2015 public comments were received at the public hearings, from the on-line surveys, and in the U.S. Mail. Areas that were commented on for Article 1, (Definitions), included the language used to define key terms in the rules such as “criminal offense,” “investigation,” “finding,” “reporting source,” and “response time.” Comments received for Article 2, (Receipt and Screening of Communications), included recommendations for the language used to describe the Department’s process for transmitting reports of child abuse and neglect to the field unit, identification of which types of communications would not be considered reports, and the Centralized Intake Hotline’s quality assurance process. The Department had an additional meeting with stakeholders on November 2, 2015 to obtain greater clarification and additional stakeholder input on the draft rules. The Department reviewed all written comments received on-line and in the U.S. Mail and incorporated comments where applicable in the final rule package in 2015.

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

**General**

The Department adopted the rules covered in this five-year-review under its own title (Title 21, Child Safety) in January 2016. The Department did not prepare an Economic Impact Statement for this Chapter when the rules were initially made, as the rules were exempt from formal rulemaking procedures. The economic impact is the result of

the statutory mandates. Below is an assessment of the actual economic, small business, and consumer impact of the rules.

The rules under Chapter 3 pertain to procedures regarding receipt, screening, and follow-up of calls received at the Department's Centralized Intake Hotline, at times referred to as the Child Abuse Hotline. The purpose of the rules is to communicate the Department's responsibility to maintain a Centralized Intake Hotline for the public to report suspicions of child abuse and neglect. The rules further provide information on how the information received is processed.

**Identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the rules.**

Persons directly impacted by these rules are children that are the subject of an allegation of abuse or neglect, persons investigated on suspicion of perpetrating abuse or neglect of a child, and the Department.

The Department as well as the public benefit from the rules in Chapter 3 as the rules inform that there is a Hotline available where they may report child abuse and neglect. The rules further inform the public on how the Department addresses information and concerns reported to the Hotline.

The below information provides economic data that reflects a comprehensive view of the impact these mandates have on the Department's stakeholders.

**Cost/Benefit Analysis**

Cost bearers and beneficiaries from these rules include the following: children that are the subject of an allegation of abuse or neglect, persons investigated on suspicion of perpetrating abuse or neglect of a child, the Department, and the public. The Department does not anticipate allotting any new full-time employees or making changes to those currently allotted. The Department only anticipates hiring employees to fill vacancies as they arise. There are no political subdivisions affected by these rules. The benefit to others includes information and availability to report suspicions of child abuse and neglect. The rules provide information on the DCS Centralized Intake Hotline.

Between October 1, 2017 and March 31, 2018, there were 80,004 incoming communications to the Centralized Intake Hotline: 52,865 calls did not meet the criteria of child abuse or neglect; 24,093 calls met the statutory requirements of abuse or neglect. Of the 24,093 calls, 423 calls fell within the jurisdiction of military or tribal governments and were referred to those jurisdictions for response. Of the 80,004 calls, there were 3,046 calls that were abandoned before the Specialist answered the call. (DCS, Semi-annual report Child Welfare Reporting Requirements for the period of October 1, 2017 through March 31, 2018) The average time for Hotline staff to answer a call in June 2018 was thirty-two seconds. (Monthly Operational Outcomes Report, June 2018)

A random sample of calls not meeting the criteria for child abuse or neglect revealed that the calls pertained to:

- concern only/no allegation of child abuse or neglect;
- out of DCS Jurisdiction;
- call appropriate for Law Enforcement jurisdiction;
- insufficient information;
- truancy/custody issues; or
- current case questions or referrals.

Additionally, the Department performs weekly quality assurance reviews of these communications to ensure accurate assessments and proper classification of communications. (DCS, Semi-annual report Child Welfare Reporting Requirements for the period of October 1, 2017 through March 31, 2018)

The Department's Centralized Intake Hotline has 113 full-time employees to operate a functioning and efficient Hotline to support all calls received, 24 hours a day, seven (7) days a week. The Hotline staff consists of 77 Intake Specialists, 13 DCS Supervisors, four (4) Case Aides, eight (8) Program Specialists, and 11 Administrative Staff (one Administrator, two program managers, one Call Center Operations Manager, one Regional Automation Liaison, one Program Specialist, one Executive Staff Assistant, one Hotline Trainer, one HR Liaison, one Workforce Management Analyst, and one Secretary).

The Department expended \$6,873,295.00 in Fiscal Year 2017 for the functions in this Article. This is a combination of federal and state funding.

**A general description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the rulemaking.**

There is no known direct impact on private and public employment in businesses and political subdivisions of this state directly affected by these rules.

**A statement of the probable impact of the rules on small business.**

Identification of the small businesses subject to the rules.

There are no small businesses subject to the rules in Chapter 3.

The administrative and other costs required for compliance with the rules.

The rules in Chapter 3 impact the Department of Child Safety as the agency authorized to receive and screen calls pertaining to child abuse and neglect. There are no costs charged to the public for availability of the Hotline.

A description of the methods that the agency may use to reduce the impact on small businesses.

There are no fees charged to those calling the Centralized Intake Hotline.

The probable costs and benefits to private persons and consumers who are directly affected by the rules.

There are no costs associated with reporting abuse and neglect of children. The Department is responsible for the maintenance of the Centralized Intake Hotline. The benefits to private persons is the availability of reporting suspicions of child abuse or neglect and the protection of children.

**A statement of the probable effect on state revenues.**

There are no fees associated with these rules. The Department has not identified any direct or indirect effect of the rulemaking on state revenues.

**A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking.**

The rules under review propose the least intrusive and least costly method of achieving the purpose in the rules.

**A description of any data on which the rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data.**

Not applicable

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?**

This is the first review of the rules in Chapter 3, Articles 1 and 2. The rules in these Articles became effective on January 26, 2016.

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 Department believes that the current rules pose the least burden and costs to the regulated persons by this rule.

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

42 U.S.C. 5106a.

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, because the Department is not proposing a new rule or an amendment to an existing rule that requires the issuance of a regulatory permit, license or agency authorization.

14. **Proposed course of action**

The Department has reviewed the current rules and will work with the Governor's office to request an exception from the moratorium and approval to proceed with rulemaking to address the needed changes identified in this report, with a target date of completion of December 2020.

**ARIZONA DEPARTMENT OF CHILD SAFETY**

**Five-Year-Review Report**

**Title 21. Child Safety**

**Chapter 4. Department of Child Safety - Response to Reports**

**Article 1. Investigations**

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

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

Specific Statutory Authority: A.R.S. §§ 8-454 and 8-471

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

Article 1. Investigations

Rule	Objective
R21-4-101. Definitions	The objective of this rule is to promote and facilitate uniform understanding of terminology used by the Department.
R21-4-102. Response Times	The objective of this rule is to clarify that the Department will respond to a DCS report as required under Title 21, Chapter 3, Article 2.
R21-4-103. Methods of Investigation	The objective of this rule is to explain the Department's procedures for investigating DCS reports of child maltreatment.
R21-4-104. Coordination with Law Enforcement	The objective of this rule is to explain the Department's coordination with Law Enforcement.
R21-4-105. Investigation Findings; Required Documentation	The objective of this rule is to explain that the Department must render a finding on an investigation; document the finding; and provide notice as appropriate.
R21-4-106. Ongoing Services; Case Closure	The objective of this rule is to explain the Department's policy to close a case when determined that a child is not in need of services.
R21-4-107. Procedures for Temporary Custody	The objective of this rule is to explain the Department's procedures used to determine whether a child can safely remain in the home or needs to be removed from the home.

R21-4-108. Quality Assurance	The objective of this rule is to inform that it is the Department's policy to conduct reviews to verify that investigation procedures were conducted properly.
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3. **Are the rules effective in achieving their objectives?** Yes X No \_\_\_

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

*If not, please identify the rule(s) that is not consistent. Also, provide an explanation and identify the provisions that are not consistent with the rule.*

Rule	Explanation
R21-4-107	In 2017 Arizona legislation was signed by the Governor, effective July 1, 2018 which made changes to A.R.S. § 8-821. This includes changes to the process the Department must follow in taking temporary custody of a child. The Department has updated its policy and procedures to be in compliance with these changes. The Department will request an exception to the moratorium to update rules as needed.

5. **Are the rules enforced as written?** Yes \_\_\_ No X

*If not, please identify the rule(s) that is not enforced as written and provide an explanation of the issues with enforcement. In addition, include the agency's proposal for resolving the issue.*

Rule	Explanation
R21-4-107	Please refer to #4.

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

*If not, please identify the rule(s) that is not clear, concise, or understandable and provide an explanation as to how the agency plans to amend the rule(s) to improve clarity, conciseness, and understandability.*

Rule	Explanation
R21-4-103	R21-4-103 (B) is not clear, concise, and understandable as it needs to include a reference to subsection (D). R21-4-103 (H): Use of the term "report" is not clear, concise, and understandable in this rule as this term may be confused with "DCS Report" as defined in Title 21, Article 3. The Department will request an exception to the moratorium to clarify that the DCS Investigator communicates additional information to the Intake Hotline upon discovery of evidence of other incidents of abuse or neglect.

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

The Department has not received written criticism of the rules in this Chapter since the rules were finalized under exempt rulemaking in January 2016. In 2015 comments were received at the public hearings, via the Department's website and in the U.S. Mail. Concerns were shared and language proposed to cover the role, actions, and responsibilities of an investigator employed by the Department of Child Safety and the quality assurance process of the Department for conducting investigations. The Department had an additional meeting with stakeholders on November 2, 2015 to obtain greater clarification and additional stakeholder input on the draft rules. The Department reviewed all written comments received on-line and in the U.S. Mail and incorporated comments where applicable in the final rule package.

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

**General**

The Department adopted the rules covered in this five-year-review under its own title (Title 21, Child Safety) in January 2016. The Department did not prepare an Economic Impact Statement for this Chapter when the rules were initially made as the rules were exempt from formal rulemaking procedures. The economic impact is the result of the statutory mandates. Below is an assessment of the actual economic, small business, and consumer impact of the rules.

The rules under Chapter 4 pertain to Department's policy and procedures when investigating allegations of abuse and neglect of children. The Department of Child Safety is the state agency authorized by Arizona Revised Statutes to protect children by investigating allegations of abuse and neglect, to promote the well-being of the child in a permanent home, and to coordinate services to strengthen the family and prevent, intervene and treat abuse and neglect of children.

**Identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the rules.**

Persons directly impacted by these rules are children who are the subject of an allegation of abuse or neglect, persons investigated on suspicion of perpetrating abuse or neglect of a child, and the Department.

**Cost/Benefit Analysis**

Cost bearers and beneficiaries from these rules include: children that are the subject of an allegation of abuse or neglect, persons investigated on suspicion of perpetrating abuse or neglect of a child, and the Department. The Department does not anticipate allotting any new full-time employees or making changes to the number currently allotted. The Department only anticipates hiring employees to fill vacancies as they arise. There are no political subdivisions affected by these rules. The benefit of these rules is that the rules provide information as to the Department's policies and procedures when investigating allegations of child abuse and neglect.

Rules in this Chapter are used by the Department to govern the policy and procedures when conducting investigations of child abuse and neglect. There are no fees charged in association with the rules in this Chapter. Between October 1, 2017 and March 31, 2018, there were 24,093 calls made to the DCS Centralized Intake (Child Abuse) Hotline that met the statutory requirements for a report of abuse or neglect. The Department assigned 23,670 of these DCS reports of child abuse and neglect for investigation by Department Investigators. The remaining 423 reports were within the jurisdiction of military or tribal governments and referred to those jurisdictions. (DCS, Semi-annual report Child Welfare Reporting Requirements for the period of October 1, 2017 through March 31, 2018)

The Department has multiple offices and units statewide tasked with the responsibility of investigating DCS reports of child abuse and neglect. The Department has five (5) regions: Central, Southwest, Pima, Northern, and Southeast. There are 42 field offices statewide staffed with DCS investigators and/or Office of Child Welfare Investigations (OCWI) investigators and their respective supervisors.

Tasks associated with investigations include, but are not limited to the following:

- Investigate reports of abuse and neglect received from the Child Abuse Hotline
- Conduct preliminary research and activities, including review of DCS records, DPS records, and attempts to contact the reporting source
- For investigations involving criminal conduct, contact with law enforcement to coordinate response
- Respond to reports and initiate the investigation within timeframes set in the Department's policy and procedures; response includes contacting the alleged child victim
- Complete a present danger assessment
- Follow interview protocols per Department policy and procedures
- Collect necessary supporting documentation
- Determine child safety utilizing the Department's safety assessment model
- Develop a plan to manage threats to child safety when a child has been determined to be unsafe Determine and enter allegation findings based on probable cause standards
- Consult with DCS Program Supervisor on protective actions, safety plans, safety determinations, and allegation findings
- Conduct a supervisory review of documentation to determine if all investigative tasks were completed and if sufficient information was gathered to make a decision on child safety and the need for child safety services

In Fiscal Year 2017, \$120,825,128.00 was expended for the functions in this Article. This is a combination of federal and state funding.

**A general description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the rulemaking.**

There is no known direct impact on private and public employment in businesses and political subdivision of this state directly affected by these rules.

**A statement of the probable impact of the rules on small business.**

Identification of the small businesses subject to the rules.

There are no small businesses subject to the rules in Chapter 4.

The administrative and other costs required for compliance with the rules.

The rules in Chapter 4 impact the Department of Child Safety as the agency authorized to investigate allegations of child abuse and neglect. There are no fees charged to the public as a result of these rules.

A description of the methods that the agency may use to reduce the impact on small businesses.

There are no fees charged as a result of these rules.

The probable costs and benefits to private persons and consumers who are directly affected by the rules.

There are no costs associated with these rules. The benefits to private persons and consumers who are directly affected by these rules is the information provided as to the Department's policies and procedures when investigating child abuse and neglect.

**A statement of the probable effect on state revenues.**

There are no fees associated with these rules. The Department has not identified any direct or indirect effect of the rulemaking on state revenues.

**A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking.**

The rules under review propose the least intrusive and least costly method of achieving the purpose in the rules.

**A description of any data on which the rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data.**

Not applicable

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?

This is the first review of the rules in Chapter 4. The rules in this Chapter became effective on January 26, 2016.

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:**

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

42 U.S.C. 5106a. The rules are not more stringent than federal laws.

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 because the Department is not proposing a new rule or an amendment to an existing rule that requires the issuance of a regulatory permit, license or agency authorization.

14. **Proposed course of action**

The Department has reviewed the current rules and will work with the Governor's office to request an exception from the moratorium and approval to proceed with rulemaking to address the needed changes identified in this report, with a target date of completion of December 2020.