

REFERENCE TITLE: minors; abuse; duty to report

State of Arizona
House of Representatives
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HB 2354

Introduced by
Representatives Lopez, Bradley, Saradnik, Sinema: Ableser, Alvarez,
Anderson, Burns J, Cajero Bedford, Campbell CL, Garcia M, Lujan, Miranda,
Pancrazi, Rios P, Schapira

AN ACT

AMENDING SECTION 13-3620, ARIZONA REVISED STATUTES; RELATING TO THE DUTY TO REPORT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3620, Arizona Revised Statutes, is amended to
3 read:

4 13-3620. Duty to report abuse, physical injury, neglect and
5 denial or deprivation of medical or surgical care or
6 nourishment of minors; medical records; exceptions;
7 violation; classification; definitions

8 A. Any person who reasonably believes that a minor is or has been the
9 victim of physical injury, abuse, child abuse, a reportable offense or
10 neglect that appears to have been inflicted on the minor by other than
11 accidental means or that is not explained by the available medical history as
12 being accidental in nature or who reasonably believes there has been a denial
13 or deprivation of necessary medical treatment or surgical care or nourishment
14 with the intent to cause or allow the death of an infant who is protected
15 under section 36-2281 shall immediately report or cause reports to be made of
16 this information to a peace officer or to child protective services in the
17 department of economic security, except if the report concerns a person who
18 does not have care, custody or control of the minor, the report shall be made
19 to a peace officer only. A member of the clergy, christian science
20 practitioner or priest who has received a confidential communication or a
21 confession in that person's role as a member of the clergy, A christian
22 science practitioner or a priest in the course of the discipline enjoined by
23 the church to which the member of the clergy, christian science practitioner
24 or priest belongs may withhold reporting of the communication or confession
25 if the member of the clergy, christian science practitioner or priest
26 determines that it is reasonable and necessary within the concepts of the
27 religion. This exemption applies only to the communication or confession and
28 not to personal observations the member of the clergy, christian science
29 practitioner or priest may otherwise make of the minor. For the purposes of
30 this subsection, "person" means:

31 1. Any physician, physician's assistant, optometrist, dentist,
32 osteopath, chiropractor, podiatrist, behavioral health professional, nurse,
33 psychologist, counselor or social worker who develops the reasonable belief
34 in the course of treating a patient.

35 2. Any peace officer, member of the clergy, priest or christian
36 science practitioner.

37 3. The parent, stepparent or guardian of the minor.

38 4. School personnel or domestic violence victim ~~advocate~~ **ADVOCATES** who
39 develop the reasonable belief in the course of their employment.

40 5. Any other person who has responsibility for the care or treatment
41 of the minor.

1 B. A report is not required under this section for conduct prescribed
2 by sections 13-1404 and 13-1405 if EITHER:

3 1. The conduct involves only minors who are ~~fourteen~~, fifteen, sixteen
4 or seventeen years of age and there is nothing to indicate that the conduct
5 is other than consensual.

6 2. THE CONDUCT INVOLVES A MINOR WHO IS FIFTEEN, SIXTEEN OR SEVENTEEN
7 YEARS OF AGE AND AN ADULT WHO IS UNDER NINETEEN YEARS OF AGE OR ATTENDING
8 HIGH SCHOOL AND WHO IS NOT MORE THAN TWENTY-FOUR MONTHS OLDER THAN THE MINOR
9 AND THERE IS NOTHING TO INDICATE THAT THE CONDUCT IS OTHER THAN CONSENSUAL.

10 C. If a physician, psychologist or behavioral health professional
11 receives a statement from a person other than a parent, stepparent, guardian
12 or custodian of the minor during the course of providing sex offender
13 treatment that is not court ordered or that does not occur while the offender
14 is incarcerated in the state department of corrections or the department of
15 juvenile corrections, the physician, psychologist or behavioral health
16 professional may withhold the reporting of that statement if the physician,
17 psychologist or behavioral health professional determines it is reasonable
18 and necessary to accomplish the purposes of the treatment.

19 D. Reports shall be made immediately by telephone or in person and
20 shall be followed by a written report within seventy-two hours. The reports
21 shall contain:

22 1. The names and addresses of the minor and the minor's parents or the
23 person or persons having custody of the minor, if known.

24 2. The minor's age and the nature and extent of the minor's abuse,
25 child abuse, physical injury or neglect, including any evidence of previous
26 abuse, child abuse, physical injury or neglect.

27 3. Any other information that the person believes might be helpful in
28 establishing the cause of the abuse, child abuse, physical injury or neglect.

29 E. A health care professional who is regulated pursuant to title 32
30 and who, after a routine newborn physical assessment of a newborn infant's
31 health status or following notification of positive toxicology screens of a
32 newborn infant, reasonably believes that the newborn infant may be affected
33 by the presence of alcohol or a drug listed in section 13-3401 shall
34 immediately report this information, or cause a report to be made, to child
35 protective services in the department of economic security. For the purposes
36 of this subsection, "newborn infant" means a newborn infant who is under
37 thirty days of age.

38 F. Any person other than one required to report or cause reports to be
39 made under subsection A of this section who reasonably believes that a minor
40 is or has been a victim of abuse, child abuse, physical injury, a reportable
41 offense or neglect may report the information to a peace officer or to child
42 protective services in the department of economic security, except if the
43 report concerns a person who does not have care, custody or control of the
44 minor, the report shall be made to a peace officer only.

1 G. A person who has custody or control of medical records of a minor
2 for whom a report is required or authorized under this section shall make the
3 records, or a copy of the records, available to a peace officer or child
4 protective services worker investigating the minor's neglect, child abuse,
5 physical injury or abuse on written request for the records signed by the
6 peace officer or child protective services worker. Records disclosed
7 pursuant to this subsection are confidential and may be used only in a
8 judicial or administrative proceeding or investigation resulting from a
9 report required or authorized under this section.

10 H. When telephone or in-person reports are received by a peace
11 officer, the officer shall immediately notify child protective services in
12 the department of economic security and make the information available to
13 ~~them~~ CHILD PROTECTIVE SERVICES. Notwithstanding any other statute, when
14 child protective services receives these reports by telephone or in person,
15 it shall immediately notify a peace officer in the appropriate jurisdiction.

16 I. Any person who is required to receive reports pursuant to
17 subsection A of this section may take or cause to be taken photographs of the
18 minor and the vicinity involved. Medical examinations of the involved minor
19 may be performed.

20 J. A person who furnishes a report, information or records required or
21 authorized under this section, or a person who participates in a judicial or
22 administrative proceeding or investigation resulting from a report,
23 information or records required or authorized under this section, is immune
24 from any civil or criminal liability by reason of that action unless the
25 person acted with malice or unless the person has been charged with or is
26 suspected of abusing or neglecting the child or children in question.

27 K. Except for the attorney client privilege or the privilege under
28 subsection L of this section, no privilege applies to any:

29 1. Civil or criminal litigation or administrative proceeding in which
30 a minor's neglect, dependency, abuse, child abuse, physical injury or
31 abandonment is an issue.

32 2. Judicial or administrative proceeding resulting from a report,
33 information or records submitted pursuant to this section.

34 3. Investigation of a minor's child abuse, physical injury, neglect
35 or abuse conducted by a peace officer or child protective services in the
36 department of economic security.

37 L. In any civil or criminal litigation in which a child's neglect,
38 dependency, physical injury, abuse, child abuse or abandonment is an issue, a
39 member of the clergy, a christian science practitioner or a priest shall not,
40 without his consent, be examined as a witness concerning any confession made
41 to him in his role as a member of the clergy, a christian science
42 practitioner or a priest in the course of the discipline enjoined by the
43 church to which he belongs. Nothing in this subsection discharges a member
44 of the clergy, a christian science practitioner or a priest from the duty to
45 report pursuant to subsection A of this section.

1 M. If psychiatric records are requested pursuant to subsection G of
2 this section, the custodian of the records shall notify the attending
3 psychiatrist, who may excise from the records, before they are made
4 available:

5 1. Personal information about individuals other than the patient.

6 2. Information regarding specific diagnosis or treatment of a
7 psychiatric condition, if the attending psychiatrist certifies in writing
8 that release of the information would be detrimental to the patient's health
9 or treatment.

10 N. If any portion of a psychiatric record is excised pursuant to
11 subsection M of this section, a court, upon application of a peace officer or
12 child protective services worker, may order that the entire record or any
13 portion of the record that contains information relevant to the reported
14 abuse, child abuse, physical injury or neglect be made available to the peace
15 officer or child protective services worker investigating the abuse, child
16 abuse, physical injury or neglect.

17 O. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, SCHOOL PERSONNEL ARE
18 NOT REQUIRED TO REPORT A NONACCIDENTAL PHYSICAL INJURY TO A MINOR THAT IS
19 CAUSED BY ANOTHER MINOR ON SCHOOL PROPERTY IF ALL OF THE FOLLOWING APPLY:

20 1. THE INJURY IS NOT A SERIOUS PHYSICAL INJURY.

21 2. THE MINORS ARE PUPILS WHO ARE ENROLLED IN THE SAME SCHOOL.

22 3. A SCHOOL REPRESENTATIVE PROMPTLY ADVISES THE PARENT OR GUARDIAN OF
23 THE INJURED MINOR OF THE INJURY AND THE NAME OF THE PUPIL WHO ALLEGEDLY
24 CAUSED THE INJURY.

25 ~~θ~~ P. A person who violates this section is guilty of a class 1
26 misdemeanor, except if the failure to report involves a reportable offense,
27 the person is guilty of a class 6 felony.

28 ~~P~~ Q. For the purposes of this section:

29 1. "Abuse" has the same meaning prescribed in section 8-201.

30 2. "Child abuse" means child abuse pursuant to section 13-3623.

31 3. "Neglect" has the same meaning prescribed in section 8-201.

32 4. "Reportable offense" means any of the following:

33 (a) Any offense listed in chapters 14 and 35.1 of this title or
34 section 13-3506.01.

35 (b) Surreptitious photographing, videotaping, filming or digitally
36 recording OR VIEWING of a minor pursuant to section 13-3019.

37 (c) Child prostitution pursuant to section 13-3212.

38 (d) Incest pursuant to section 13-3608.