

REFERENCE TITLE: **child protective services**

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2144

Introduced by
Representatives Brophy McGee, Miranda: Carter, Goodale

AN ACT

**AMENDING SECTIONS 8-800, 8-802, 8-804 AND 13-3620, ARIZONA REVISED STATUTES;
RELATING TO CHILD PROTECTIVE SERVICES**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-800, Arizona Revised Statutes, is amended to
3 read:

4 8-800. Purpose of child protective services

5 The primary ~~purposes~~ PURPOSE of child protective services ~~are IS~~ to
6 protect children ~~by investigating allegations of abuse and neglect, promoting~~
7 ~~the well-being of the child in a permanent home and coordinating services to~~
8 ~~strengthen the family and prevent, intervene in and treat abuse and neglect~~
9 ~~of children.~~ TO ACHIEVE THIS PURPOSE, CHILD PROTECTIVE SERVICES SHALL DO THE
10 FOLLOWING:

11 1. INVESTIGATE ALLEGATIONS OF ABUSE AND NEGLECT.

12 2. ASSESS, PROMOTE AND SUPPORT THE SAFETY OF A CHILD IN A SAFE AND
13 STABLE FAMILY OR OTHER APPROPRIATE PLACEMENT.

14 3. WORK COOPERATIVELY WITH LAW ENFORCEMENT AND THE OFFICE OF CHILD
15 WELFARE INVESTIGATIONS IN THE INVESTIGATION OF ALLEGATIONS OF CRIMINAL CHILD
16 ABUSE AND NEGLECT.

17 4. WITHOUT COMPROMISING CHILD SAFETY, COORDINATE SERVICES TO ACHIEVE
18 PERMANENCY ON BEHALF OF THE CHILD, STRENGTHEN THE FAMILY AND ASSIST IN THE
19 PREVENTION, INTERVENTION AND TREATMENT OF ABUSE AND NEGLECT OF CHILDREN.

20 Sec. 2. Section 8-802, Arizona Revised Statutes, is amended to read:

21 8-802. Child protective services worker; fingerprint clearance
22 cards; powers and duties; alteration of files;
23 violation; classification

24 A. The department of economic security shall employ child protective
25 services workers. All persons who are employed as child protective services
26 workers shall have a valid fingerprint clearance card that is issued pursuant
27 to section 41-1758.07 or shall apply for a fingerprint clearance card within
28 seven working days of employment. A child protective services worker shall
29 certify on forms that are provided by the department of economic security and
30 that are notarized whether the worker is awaiting trial on or has ever been
31 convicted of any of the criminal offenses listed in section 41-1758.07,
32 subsections B and C in this state or similar offenses in another state or
33 jurisdiction.

34 B. The department may cooperate with county agencies and community
35 social services agencies to achieve the purposes of this chapter.

36 C. ~~A~~ Child protective services ~~worker~~ shall:

37 1. Promote the safety and protection of children.

38 2. Accept, screen and assess reports of abuse or neglect:

39 (a) Pursuant to section 8-817.

40 (b) In level I residential treatment centers or in level II or level
41 III behavioral health residential agencies that are licensed by the
42 department of health services.

1 3. Receive reports of dependent, abused or abandoned children and be
2 prepared to provide temporary foster care for these children on a twenty-four
3 hour basis.

4 4. Receive from any source oral or written information regarding a
5 child who may be in need of protective services. A worker shall not
6 interview a child without the prior written consent of the parent, guardian
7 or custodian of the child unless either:

8 (a) The child initiates contact with the worker.

9 (b) The child who is interviewed is the subject of or is the sibling
10 of or living with the child who is the subject of an abuse or abandonment
11 investigation pursuant to paragraph 5, subdivision (b) of this subsection.

12 (c) The interview is conducted pursuant to the terms of the protocols
13 established pursuant to section 8-817.

14 5. After the receipt of any report or information pursuant to
15 paragraph 2, 3 or 4 of this subsection, immediately do both of the following:

16 (a) Notify the municipal or county law enforcement agency.

17 (b) Make a prompt and thorough ~~investigation~~ ASSESSMENT of THE REPORT
18 TO DETERMINE IF AN INVESTIGATION IS REQUIRED OR IF AN ALTERNATIVE RESPONSE IS
19 APPROPRIATE. AN INVESTIGATION MUST DETERMINE the nature, extent and cause of
20 any condition that would tend to support or refute the allegation that the
21 child should be adjudicated dependent and the name, age and condition of
22 other children in the home. A criminal conduct allegation shall be
23 investigated according to the protocols established pursuant to section 8-817
24 BY CHILD PROTECTIVE SERVICES OR THE OFFICE OF CHILD WELFARE INVESTIGATIONS
25 with the appropriate municipal or county law enforcement agency as provided
26 in section 8-817.

27 6. Take a child into temporary custody as provided in section 8-821.
28 Law enforcement officers shall cooperate with the department to remove a
29 child from the custody of the child's parents, guardian or custodian when
30 necessary.

31 7. After investigation, evaluate conditions created by the parents,
32 guardian or custodian that would support or refute the allegation that the
33 child should be adjudicated dependent. The child protective services worker
34 shall then determine whether any child is in need of protective services.

35 8. Offer to the family of any child who is found to be a child in need
36 of protective services those services that are designed to correct unresolved
37 problems that would indicate a reason to adjudicate the child dependent.

38 9. Submit a written report of the worker's investigation to:

39 (a) The department's case management information system within a
40 reasonable time period that does not exceed forty-five days after receipt of
41 the initial information except as provided in section 8-811. If the
42 investigation involves allegations regarding a child who at the time of the
43 alleged incident was in the custody of a child welfare agency licensed by the
44 department of economic security under this title, a copy of the report and

1 any additional investigative or other related reports shall be provided to
2 the board of directors of the agency or to the administrative head of the
3 agency unless the incident is alleged to have been committed by the person.
4 The department shall excise all information with regard to the identity of
5 the source of the reports.

6 (b) The appropriate court forty-eight hours before a dependency
7 hearing pursuant to a petition of dependency or within twenty-one days after
8 a petition of dependency is filed, whichever is earlier. On receipt of the
9 report the court shall make the report available to all parties and counsel.

10 10. Accept a child into voluntary placement pursuant to section 8-806.

11 11. Make a good faith effort to promptly obtain and abide by court
12 orders that restrict or deny custody, visitation or contact by a parent or
13 other person in the home with the child. As part of the good faith effort,
14 the child protective services worker shall ask the parent, guardian or
15 custodian under investigation if a current court order exists.

16 D. A child shall not remain in temporary custody for a period
17 exceeding seventy-two hours, excluding Saturdays, Sundays and holidays,
18 unless a dependency petition is filed. If a petition is not filed and the
19 child is released to the child's parent, guardian or custodian, the worker
20 shall file a report of removal with the central registry within seventy-two
21 hours of the child's release. The report shall include:

22 1. The dates of previous referrals, investigations or temporary
23 custody.

24 2. The dates on which other children in the family have been taken
25 into temporary custody.

26 E. The department shall provide child protective services workers who
27 investigate allegations of abuse and neglect with training in forensic
28 interviewing and processes, the protocols established pursuant to section
29 8-817 and relevant law enforcement procedures. All child protective services
30 workers shall be trained in their duty to protect the legal rights of
31 children and families from the time of the initial contact through treatment.
32 The training shall include knowledge of a child's rights as a victim of
33 crime. The training for child protective services workers shall also include
34 instruction on the legal rights of parents and the requirements for legal
35 search and seizure by law enforcement officers.

36 F. In conducting an investigation pursuant to this section, if the
37 worker is made aware that an allegation of abuse or neglect may also have
38 been made in another state, the worker shall contact the appropriate agency
39 in that state to attempt to determine the outcome of any investigation of
40 that allegation.

41 G. Any person who alters a client file for the purpose of fraud or
42 misrepresentation is guilty of a class 2 misdemeanor.

1 H. THE DEPARTMENT OF ECONOMIC SECURITY MAY DEVELOP AN ALTERNATIVE
2 RESPONSE FOR DESIGNATED REPORTS. THE DEPARTMENT MAY ADOPT RULES TO IMPLEMENT
3 THE ALTERNATIVE RESPONSE FOR DESIGNATED REPORTS.

4 Sec. 3. Section 8-804, Arizona Revised Statutes, is amended to read:
5 8-804. Central registry; notification

6 A. The department of economic security shall maintain a central
7 registry of reports of child abuse and neglect that are substantiated and the
8 outcome of the investigation of these reports made under this article. A
9 finding made by a court pursuant to section 8-844, subsection C that a child
10 is dependent based on an allegation of abuse or neglect shall be recorded as
11 a substantiated finding of abuse or neglect. The department shall
12 incorporate duplicate reports on the same incident in the original report and
13 shall not classify duplicate reports as new reports.

14 B. The department shall conduct central registry background checks and
15 shall use the information contained in the central registry only for the
16 following purposes:

17 1. As a factor to determine qualifications for foster home licensing,
18 adoptive parent certification, child care home certification, registration of
19 unregulated child care homes with the child care resource and referral
20 system, and home and community based services certification for services to
21 children or vulnerable adults.

22 2. As a factor to determine qualifications for persons who are
23 employed or who are applying for employment with this state in positions that
24 provide direct service to children or vulnerable adults.

25 3. As a factor to determine qualifications for positions that provide
26 direct service to children or vulnerable adults for:

27 (a) Any person who applies for a contract with this state and that
28 person's employees.

29 (b) All employees of a contractor.

30 (c) A subcontractor of a contractor and the subcontractor's employees.

31 (d) Prospective employees of the contractor or subcontractor at the
32 request of the prospective employer.

33 4. Beginning August 1, 2013, to provide information, using the
34 department of economic security's contracting requirements, to licensees that
35 do not contract with this state regarding persons who are employed or seeking
36 employment to provide direct services to children pursuant to title 36,
37 chapter 7.1.

38 5. To identify and review reports concerning individual children and
39 families, in order to facilitate the assessment of safety and risk.

40 6. To determine the nature and scope of child abuse and neglect in
41 this state and to provide statewide statistical and demographic information
42 concerning trends in child abuse and neglect.

43 7. To allow comparisons of this state's statistical data with national
44 data.

- 1 8. To comply with section 8-804.01, subsection B.
- 2 C. Beginning August 1, 2013, licensees that do not contract with the
3 state and that employ persons who provide direct services to children
4 pursuant to title 36, chapter 7.1 must submit to the department of economic
5 security in a manner prescribed by the department of economic security
6 information necessary to conduct central registry background checks. The
7 department of health services shall verify whether licensees, pursuant to
8 title 36, chapter 7.1, have complied with the requirements of this subsection
9 and any rules adopted by the department of health services to implement this
10 subsection.
- 11 D. If the department received a report before September 1, 1999 and
12 determined that the report was substantiated, the department shall maintain
13 the report in the central registry until eighteen years from the child
14 victim's date of birth.
- 15 E. If the department received a report on or after September 1, 1999
16 and determined that the report was substantiated, the department shall
17 maintain the report in the central registry for **NOT MORE THAN** twenty-five
18 years after the date of the report.
- 19 F. The department shall annually purge reports and investigative
20 outcomes received pursuant to the time frames prescribed in subsections D and
21 E of this section.
- 22 G. Any person who was the subject of a child protective services
23 investigation may request confirmation that the department has purged
24 information about the person pursuant to subsection F of this section. On
25 receipt of this request, the department shall provide the person with written
26 confirmation that the department has no record containing identifying
27 information about that person.
- 28 H. The department of economic security shall notify a person,
29 contractor or licensee identified in subsection B, paragraph 3, subdivisions
30 (a), (b) and (c) and subsection B, paragraph 4 of this section who is
31 disqualified because of a central registry check conducted pursuant to
32 subsection B of this section that the person may apply to the board of
33 fingerprinting for a central registry exception pursuant to section
34 41-619.57.
- 35 I. Before being employed in a position that provides direct services
36 to children or vulnerable adults pursuant to subsection B, paragraph 3 or
37 subsection C of this section, employees shall certify on forms that are
38 provided by the department of economic security whether an allegation of
39 abuse or neglect was made against them and was substantiated. The forms are
40 confidential.
- 41 J. A person who is granted a central registry exception pursuant to
42 section 41-619.57 is not entitled to a contract, employment, licensure,
43 certification or other benefit because the person has been granted a central
44 registry exception.

1 Sec. 4. Section 13-3620, Arizona Revised Statutes, is amended to read:
2 13-3620. Duty to report abuse, physical injury, neglect and
3 denial or deprivation of medical or surgical care or
4 nourishment of minors; medical records; exception;
5 violation; classification; definitions

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

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

33 2. Any peace officer, member of the clergy, priest or christian
34 science practitioner.

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

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

38 5. Any other person who has responsibility for the care or treatment
39 of the minor.

40 B. A report is not required under this section for conduct prescribed
41 by sections 13-1404 and 13-1405 if the conduct involves only minors who are
42 fourteen, fifteen, sixteen or seventeen years of age and there is nothing to
43 indicate that the conduct is other than consensual.

1 C. If a physician, psychologist or behavioral health professional
2 receives a statement from a person other than a parent, stepparent, guardian
3 or custodian of the minor during the course of providing sex offender
4 treatment that is not court ordered or that does not occur while the offender
5 is incarcerated in the state department of corrections or the department of
6 juvenile corrections, the physician, psychologist or behavioral health
7 professional may withhold the reporting of that statement if the physician,
8 psychologist or behavioral health professional determines it is reasonable
9 and necessary to accomplish the purposes of the treatment.

10 D. Reports shall be made immediately by telephone or ELECTRONICALLY.
11 ~~in person and shall be followed by a written report within seventy-two hours.~~
12 ~~The reports shall contain:~~

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

15 ~~2. The minor's age and the nature and extent of the minor's abuse,~~
16 ~~child abuse, physical injury or neglect, including any evidence of previous~~
17 ~~abuse, child abuse, physical injury or neglect.~~

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

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

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

36 G. A person who has custody or control of medical records of a minor
37 for whom a report is required or authorized under this section shall make the
38 records, or a copy of the records, available to a peace officer or child
39 protective services worker investigating the minor's neglect, child abuse,
40 physical injury or abuse on written request for the records signed by the
41 peace officer or child protective services worker. Records disclosed
42 pursuant to this subsection are confidential and may be used only in a
43 judicial or administrative proceeding or investigation resulting from a
44 report required or authorized under this section.

1 H. When ~~telephone or in person~~ reports are received by a peace
2 officer, the officer shall immediately notify child protective services in
3 the department of economic security and make the information available to
4 ~~them~~ CHILD PROTECTIVE SERVICES. Notwithstanding any other statute, when
5 child protective services receives these reports ~~by telephone or in person~~,
6 it shall immediately notify a peace officer in the appropriate jurisdiction.

7 I. Any person who is required to receive reports pursuant to
8 subsection A of this section may take or cause to be taken photographs of the
9 minor and the vicinity involved. Medical examinations of the involved minor
10 may be performed.

11 J. A person who furnishes a report, information or records required or
12 authorized under this section, or a person who participates in a judicial or
13 administrative proceeding or investigation resulting from a report,
14 information or records required or authorized under this section, is immune
15 from any civil or criminal liability by reason of that action unless the
16 person acted with malice or unless the person has been charged with or is
17 suspected of abusing or neglecting the child or children in question.

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

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

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

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

28 L. In any civil or criminal litigation in which a child's neglect,
29 dependency, physical injury, abuse, child abuse or abandonment is an issue, a
30 member of the clergy, a christian science practitioner or a priest shall not,
31 without his consent, be examined as a witness concerning any confession made
32 to him in his role as a member of the clergy, a christian science
33 practitioner or a priest in the course of the discipline enjoined by the
34 church to which he belongs. ~~Nothing in~~ This subsection ~~discharges~~ DOES NOT
35 DISCHARGE a member of the clergy, a christian science practitioner or a
36 priest from the duty to report pursuant to subsection A of this section.

37 M. If psychiatric records are requested pursuant to subsection G of
38 this section, the custodian of the records shall notify the attending
39 psychiatrist, who may excise from the records, before they are made
40 available:

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

42 2. Information regarding specific diagnosis or treatment of a
43 psychiatric condition, if the attending psychiatrist certifies in writing

1 that release of the information would be detrimental to the patient's health
2 or treatment.

3 N. If any portion of a psychiatric record is excised pursuant to
4 subsection M of this section, a court, ~~upon~~ **ON** application of a peace officer
5 or child protective services worker, may order that the entire record or any
6 portion of the record that contains information relevant to the reported
7 abuse, child abuse, physical injury or neglect be made available to the peace
8 officer or child protective services worker investigating the abuse, child
9 abuse, physical injury or neglect.

10 O. A person who violates this section is guilty of a class 1
11 misdemeanor, except if the failure to report involves a reportable offense,
12 the person is guilty of a class 6 felony.

13 P. For the purposes of this section:

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

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

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

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

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

20 (b) Surreptitious photographing, videotaping, filming or digitally
21 recording ~~of~~ **OR VIEWING** a minor pursuant to section 13-3019.

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

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