

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HOUSE BILL 2166

AN ACT

AMENDING SECTIONS 8-471, 8-525, 8-541 AND 8-807, ARIZONA REVISED STATUTES;
AMENDING TITLE 8, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING
SECTION 8-807.01; AMENDING SECTIONS 8-811 AND 13-4434, ARIZONA REVISED
STATUTES; RELATING TO DEPARTMENT OF CHILD SAFETY INFORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-471, Arizona Revised Statutes, is amended to
3 read:

4 8-471. Office of child welfare investigations: training:
5 responsibilities: annual report

6 A. The director shall establish the office of child welfare
7 investigations within the department. The director is responsible for the
8 direction, operation and control of the office.

9 B. The duties of the office include investigating criminal conduct
10 allegations, coordinating with other parts of the department and law
11 enforcement, establishing task forces for the investigation of criminal
12 conduct and other duties as may be assigned by the director.

13 C. The office shall employ child welfare investigators who have
14 received training to understand law enforcement's role in cases of criminal
15 child abuse or neglect and in social services offered by the department. The
16 office may employ research analysts and peace officers for the purpose of
17 obtaining an originating agency identification number to have direct access
18 to criminal history report information. Each person hired by the office is
19 an employee of the department, is subject to title 41, chapter 4, article 4
20 and shall comply with the fingerprint requirements of section 8-802.

21 D. The department, in coordination with the Arizona peace officer
22 standards and training board, shall provide child welfare investigators with
23 training. The training shall be, at a minimum, in the following areas:

- 24 1. First responder training on responding to reports of child abuse.
- 25 2. Forensic interviewing and processes.
- 26 3. Child physical and sexual abuse investigation.
- 27 4. The protocols established pursuant to section 8-817.
- 28 5. Relevant law enforcement procedures, including the collection and
29 preservation of evidence.

30 6. A child's constitutional rights as a victim of a crime pursuant to
31 article II, section 2.1, Constitution of Arizona.

32 7. Impact and intervention practices related to adverse childhood
33 experiences, culturally and linguistically appropriate service delivery,
34 domestic violence, family engagement, communication with special populations
35 and trauma informed responses.

36 8. Any other training as directed by the director.

37 E. A child welfare investigator shall:

38 1. Protect children.

39 2. Assess, respond to or investigate all criminal conduct allegations,
40 which shall be a priority, but not otherwise exercise the authority of a
41 peace officer.

42 3. Not interview a child without the prior written consent of the
43 parent, guardian or custodian of the child unless either:

1 (a) The child initiates contact with the investigator.

2 (b) The child who is interviewed is the subject of, is the sibling of
3 or is living with the child who is the subject of an abuse or abandonment
4 investigation pursuant to paragraph 4, subdivision (b) of this subsection.

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

7 4. After the receipt of any report or information pursuant to
8 paragraph 2 of this subsection, immediately do both of the following:

9 (a) Notify the appropriate municipal or county law enforcement agency
10 if they have not already been notified.

11 (b) Make a prompt and thorough investigation of the nature, extent and
12 cause of any condition that would tend to support or refute the report of
13 child abuse or neglect when investigating allegations pursuant to paragraph 2
14 of this subsection. A criminal conduct allegation shall be investigated with
15 the appropriate municipal or county law enforcement agency according to the
16 protocols established pursuant to section 8-817.

17 5. Take a child into temporary custody as provided in section 8-821.
18 Law enforcement officers shall cooperate with the department to remove a
19 child from the custody of the child's parents, guardian or custodian pursuant
20 to section 8-821. A child welfare investigator who is responding to or
21 investigating a report containing a criminal conduct allegation shall have
22 the primary responsibility for making the decision whether to take a child
23 into temporary custody.

24 6. Evaluate conditions created by the parents, guardian or custodian
25 that would support or refute the allegation that the child should be
26 adjudicated dependent. The investigator shall then determine whether any
27 child is in need of child safety services.

28 7. Identify, promptly obtain and abide by court orders that restrict
29 or deny custody, visitation or contact by a parent or other person in the
30 home with the child and notify appropriate personnel within the department to
31 preclude violations of a court order in the provision of any services.

32 8. On initial contact with the parent, guardian or custodian of a
33 child who is the subject of an investigation pursuant to this section,
34 provide the parent, guardian or custodian with the allegation received by the
35 department. This paragraph does not require the department to disclose
36 details or information that would compromise an ongoing criminal
37 investigation.

38 9. Have access to all records and information of the department
39 necessary to carry out this section.

40 F. Unless a dependency petition is filed, a child shall not remain in
41 temporary custody for a period exceeding seventy-two hours, excluding
42 Saturdays, Sundays and holidays. If a petition is not filed, the child shall
43 be released to the child's parent, guardian or custodian.

1 G. In conducting an investigation pursuant to this section, if the
2 investigator is made aware that an allegation of abuse or neglect may also
3 have been made in another state, the investigator shall contact the
4 appropriate agency in that state to attempt to determine the outcome of any
5 investigation of that allegation.

6 H. The office of child welfare investigations shall submit a report by
7 August 15 each year to the governor, the speaker of the house of
8 representatives, the president of the senate and the secretary of state that
9 includes the following information for the most recently completed fiscal
10 year:

11 1. The number of reports for investigation that involve criminal
12 conduct allegations.

13 2. The number of joint investigations conducted pursuant to section
14 8-817.

15 3. For each case in which a joint investigation did not occur pursuant
16 to section 8-817, the reasons why the joint investigation did not occur.

17 I. All records gathered or created by the department during an
18 investigation conducted under this section are confidential and shall be
19 protected and released as prescribed in ~~section~~ [SECTIONS 8-807 AND 8-807.01](#),
20 except the department shall not release records if the department determines
21 that the release of these records may compromise an ongoing investigation.

22 J. Notwithstanding any other law, the office of child welfare
23 investigations is not responsible for conducting the criminal investigation
24 of a criminal conduct allegation.

25 Sec. 2. Section 8-525, Arizona Revised Statutes, is amended to read:
26 [8-525. Open court proceedings; closure; records](#)

27 A. Except as otherwise provided pursuant to this section, court
28 proceedings relating to dependent children, permanent guardianship and
29 termination of parental rights are open to the public.

30 B. At the first hearing in any dependency, permanent guardianship or
31 termination of parental rights proceeding, the court shall ask the parties if
32 there are any reasons the proceeding should be closed. For good cause shown,
33 the court may order any proceeding to be closed to the public. In
34 considering whether to close the proceeding to the public, the court shall
35 consider:

36 1. Whether doing so is in the child's best interests.

37 2. Whether an open proceeding would endanger the child's physical or
38 emotional well-being or the safety of any other person.

39 3. The privacy rights of the child, the child's siblings, parents,
40 guardians and caregivers and any other person whose privacy rights the court
41 determines need protection.

42 4. Whether all parties have agreed to allow the proceeding to be open.

43 5. If the child is at least twelve years of age and a party to the
44 proceeding, the child's wishes.

1 6. Whether an open proceeding could cause specific material harm to a
2 criminal investigation **OR PROSECUTION**.

3 C. Subject to the requirements of subsection B of this section and
4 section ~~8-807, subsection F, paragraph 2~~ **8-807.01**, a court proceeding
5 relating to child abuse, abandonment or neglect that has resulted in a
6 fatality or near fatality is open to the public.

7 D. At the beginning of a hearing that is open to the public, the court
8 shall do the following:

9 1. Admonish all attendees that they are prohibited from disclosing any
10 information that may identify the child and the child's siblings, parents,
11 guardians and caregivers, and any other person whose identity will be
12 disclosed during the proceeding.

13 2. Explain contempt of court to all attendees and the possible
14 consequences of violating an order of the court.

15 E. A person who remains in the court after the admonition pursuant to
16 subsection D of this section must abide by the court's order prohibiting
17 disclosure of that information. The court may find a person who fails to do
18 so in contempt of court.

19 F. The court may close an open proceeding at any time for good cause
20 shown and after considering the factors prescribed in subsection B of this
21 section.

22 G. If a proceeding relating to child abuse, abandonment or neglect
23 that has resulted in a fatality or near fatality has been closed by the
24 court, any person may subsequently request that the court reopen a proceeding
25 or a specific hearing to the public or request a transcript be made of any
26 previously closed proceeding. In ruling on this request, the court shall
27 consider the factors prescribed in subsection B of this section. The person
28 who requested the transcript shall pay the cost of the transcript. If the
29 court grants a request for a transcript of any closed proceeding, the court
30 shall redact from a transcript any information that:

31 1. ~~Is essential to protect~~ **PROTECTS** the privacy, well-being or safety
32 interests prescribed in subsection B of this section.

33 2. Protects the identity and safety of a person who reports child
34 abuse or neglect and any other person if the court believes that disclosure
35 of the DCS information would be likely to endanger the life or safety of any
36 person.

37 3. The court has received that is confidential by law. The court
38 shall maintain the confidentiality of the information as prescribed in the
39 applicable law.

40 H. Any person may request to inspect court records of a proceeding
41 involving the disclosure of DCS information regarding a case of child abuse,
42 abandonment or neglect that has resulted in a fatality or near fatality. In
43 ruling on this request, the court shall consider the factors prescribed in
44 subsection B of this section. If the court grants the request, the court

1 shall redact any information subject to the requirements of subsections B and
2 G of this section and section ~~8-807, subsection F, paragraph 2~~ 8-807.01.

3 Sec. 3. Section 8-541, Arizona Revised Statutes, is amended to read:
4 8-541. Records; disclosure; exception

5 A. All files, records, reports and other papers compiled in accord
6 with this article, whether filed in or in possession of the court, a child
7 placement agency or other agency or association, are subject to disclosure
8 pursuant to ~~section~~ SECTIONS 8-807 and 8-807.01.

9 B. This section does not prohibit persons employed by the court, the
10 division or a licensed child welfare agency from conducting the
11 investigations or performing other duties pursuant to this article and done
12 within the normal course of their employment.

13 Sec. 4. Section 8-807, Arizona Revised Statutes, is amended to read:
14 8-807. DCS information; public record; use; confidentiality;
15 violation; classification; definition

16 A. DCS information shall be maintained by the department as required
17 by federal law as a condition of the allocation of federal monies to this
18 state. All exceptions for the public release of DCS information shall be
19 construed as openly as possible under federal law.

20 B. The department, or a person who receives DCS information pursuant
21 to this subsection, shall provide DCS information to a federal agency, a
22 state agency, a tribal agency, a county or municipal agency, a law
23 enforcement agency, a prosecutor, an attorney or a guardian ad litem
24 representing a child victim of crime pursuant to article II, section 2.1,
25 Constitution of Arizona, a school, a community service provider, a contract
26 service provider or any other person that is providing services pursuant to
27 this article or article 9, 10, 11, 12, 13 or 14 of this chapter:

28 1. To meet its duties to provide for the safety, ~~AND~~ permanency ~~and~~
29 ~~well-being~~ of a child, provide services to a parent, guardian or custodian or
30 provide services to family members to strengthen the family pursuant to this
31 article or article 9, 10, 11, 12, 13 or 14 of this chapter.

32 2. To enforce or prosecute any violation involving child abuse or
33 neglect OR TO ASSERT THE RIGHTS OF THE CHILD AS A VICTIM OF A CRIME.

34 3. To provide information to a defendant after a criminal charge has
35 been filed as required by an order of the criminal court.

36 4. To help investigate and prosecute any violation involving domestic
37 violence as defined in section 13-3601 or violent sexual assault as
38 prescribed in section 13-1423.

39 C. The department shall disclose DCS information to a court, a party
40 in a dependency or termination of parental rights proceeding or the party's
41 attorney, the foster care review board or a court appointed special advocate
42 for the purposes of and as prescribed in this title.

1 D. The department shall disclose DCS information to a domestic
2 relations, family or conciliation court if the DCS information is necessary
3 to promote the safety and well-being of children. The court shall notify the
4 parties that it has received the DCS information.

5 E. A person or agent of a person who is the subject of DCS information
6 shall have access to DCS information concerning that person.

7 F. The department **MAY PROVIDE**:

8 1. ~~May provide~~ DCS information to confirm, clarify ~~or~~, correct **OR**
9 **SUPPLEMENT** information concerning an allegation or actual instance of child
10 abuse or neglect that has been made public by **A SOURCE OR** sources outside the
11 department.

12 ~~2. Shall promptly provide DCS information to the public regarding a~~
13 ~~case of child abuse, abandonment or neglect that has resulted in a fatality~~
14 ~~or near fatality as follows:~~

15 ~~(a) The department shall provide preliminary information including at~~
16 ~~a minimum:~~

17 ~~(i) The name, age and city, town or general location of residence of~~
18 ~~the child who has suffered a near fatality or fatality.~~

19 ~~(ii) The fact that a child suffered a near fatality or fatality as the~~
20 ~~result of abuse, abandonment or neglect.~~

21 ~~(iii) The name, age and city, town or general location of residence of~~
22 ~~the alleged perpetrator, if available.~~

23 ~~(iv) Whether there have been reports, or any current or past cases, of~~
24 ~~abuse, abandonment or neglect involving the child and the current alleged~~
25 ~~abusive or neglectful parent, guardian or custodian.~~

26 ~~(v) Actions taken by the department in response to the fatality, or~~
27 ~~near fatality of the child.~~

28 ~~(vi) A detailed synopsis of prior reports or cases of abuse,~~
29 ~~abandonment or neglect involving the child and the current alleged abusive or~~
30 ~~neglectful parent, guardian or custodian and of the actions taken or~~
31 ~~determinations made by the department in response to these reports or cases.~~

32 ~~(b) On request by any person, the department shall promptly provide~~
33 ~~additional DCS information to the requestor. Before releasing additional DCS~~
34 ~~information, the department shall promptly notify the county attorney of any~~
35 ~~decision to release that information, and the county attorney shall promptly~~
36 ~~inform the department if it believes the release would cause a specific,~~
37 ~~material harm to a criminal investigation. After consulting with the county~~
38 ~~attorney, pursuant to subdivision (c) of this paragraph, the department shall~~
39 ~~produce to the requestor as much additional DCS information as promptly as~~
40 ~~possible about a case of child abuse, abandonment or neglect that resulted in~~
41 ~~a fatality or near fatality.~~

42 ~~(c) On request, the department shall continue to provide DCS~~
43 ~~information promptly to the public about a fatality or near fatality unless:~~

1 ~~(i) After consultation with the county attorney, the county attorney~~
2 ~~demonstrates that release of particular DCS information would cause a~~
3 ~~specific, material harm to a criminal investigation.~~

4 ~~(ii) The release would violate subsection A or L of this section or~~
5 ~~the privacy of victims of crime pursuant to article II, section 2.1,~~
6 ~~subsection C, Constitution of Arizona.~~

7 ~~(d) If any person believes that the county attorney has failed to~~
8 ~~demonstrate that release would cause a specific, material harm to a criminal~~
9 ~~investigation, that person may file an action in superior court pursuant to~~
10 ~~title 39, chapter 1, article 2 and subsection J of this section and request~~
11 ~~the court to review the DCS information in camera and order disclosure.~~

12 ~~3- 2. May provide~~ DCS information to a person who is conducting bona
13 fide research, the results of which might provide DCS information that is
14 beneficial in improving the department.

15 ~~4- 3. May provide~~ Access to DCS information to the parent, guardian
16 or custodian of a child if the DCS information is reasonably necessary to
17 promote the safety, permanency and well-being of the child.

18 **4. DCS INFORMATION IF AN EMPLOYEE OF THE DEPARTMENT HAS A REASONABLE**
19 **BELIEF THAT EXIGENT CIRCUMSTANCES EXIST. FOR THE PURPOSES OF THIS PARAGRAPH,**
20 **"EXIGENT CIRCUMSTANCES" MEANS A CONDITION OR SITUATION IN WHICH THE DEATH OF**
21 **OR SERIOUS INJURY TO A CHILD WILL LIKELY RESULT IN THE NEAR FUTURE WITHOUT**
22 **IMMEDIATE INTERVENTION.**

23 G. The department shall disclose DCS information to a county medical
24 examiner or an alternate medical examiner directing an investigation into the
25 circumstances surrounding a death pursuant to section 11-593.

26 H. Access to DCS information in the central registry shall be provided
27 as prescribed in section 8-804.

28 I. To provide oversight of the department, the department shall
29 provide access to DCS information to the following persons, if the DCS
30 information is reasonably necessary for the person to perform the person's
31 official duties:

32 1. Federal or state auditors.

33 2. Persons conducting any accreditation deemed necessary by the
34 department.

35 3. A standing committee of the legislature or a committee appointed by
36 the president of the senate or the speaker of the house of representatives
37 for purposes of conducting investigations related to the legislative
38 oversight of the department. This information shall not be further disclosed
39 unless a court has ordered the disclosure of this information, the
40 information has been disclosed in a public or court record, or the
41 information has been disclosed in the course of a public meeting or court
42 proceeding.

43 4. A legislator who requests DCS information in the regular course of
44 the legislator's duties. This information shall not be further disclosed
45 unless a court has ordered the disclosure of this information, the

1 information has been disclosed in a public or court record, or the
2 information has been disclosed in the course of a public meeting or court
3 proceeding. To request a file pursuant to this paragraph:

4 (a) The legislator shall submit a written request for DCS information
5 to the presiding officer of the body of which the state legislator is a
6 member. The request shall state the name of the person whose case file is to
7 be reviewed and any other information that will assist the department in
8 locating the file.

9 (b) The presiding officer shall forward the request to the department
10 within five working days of the receipt of the request.

11 (c) The department shall make the necessary arrangements for the
12 legislator to review the file at an office of the department, chosen by the
13 legislator, within ten working days.

14 (d) The legislator shall sign a form, consistent with the requirements
15 of this paragraph and paragraph 3 of this subsection, before reviewing the
16 file, that outlines the confidentiality laws governing department files and
17 penalties for further release of the information.

18 5. A citizen review panel as prescribed by federal law, a child
19 fatality review team as provided in title 36, chapter 35 and the office of
20 ombudsman-citizens aide.

21 J. A person who has been denied DCS information regarding a fatality
22 or near fatality caused by abuse, abandonment or neglect pursuant to
23 ~~subsection F, paragraph 2 or~~ subsection L of this section OR SECTION 8-807.01
24 may bring a special action pursuant to section 39-121.02 in the superior
25 court to order the department to release that DCS information. A legislator
26 has standing to bring or to join a special action regarding the release of
27 DCS information or to challenge the redaction of released DCS information.
28 The plaintiff shall provide notice to the county attorney, who has standing
29 and may participate in the action. The court shall review the requested
30 records in camera and order disclosure consistent with ~~subsection~~ SUBSECTIONS
31 A, ~~subsection F, paragraph 2~~ and ~~subsection~~ L of this section AND SECTION
32 8-807.01. The court shall take reasonable steps to prevent any clearly
33 unwarranted invasions of privacy and protect the privacy and dignity of
34 victims of crime pursuant to article II, section 2.1, subsection C,
35 Constitution of Arizona.

36 K. The department or a person who is not specifically authorized by
37 this section to obtain DCS information may petition a judge of the superior
38 court to order the department to release DCS information. The plaintiff
39 shall provide notice to the county attorney AND TO THE ATTORNEY AND GUARDIAN
40 AD LITEM FOR THE CHILD, who ~~has~~ HAVE standing and may participate in the
41 action. The court shall review the requested records in camera and shall
42 balance the rights of the parties who are entitled to confidentiality
43 pursuant to this section against the rights of the parties who are seeking
44 the release of the DCS information. The court may release otherwise
45 confidential DCS information only if the rights of the parties seeking the

1 DCS information and any benefits from releasing the DCS information outweigh
2 the rights of the parties who are entitled to confidentiality and any harm
3 that may result from releasing the DCS information. The court shall take
4 reasonable steps to prevent any clearly unwarranted invasions of privacy and
5 protect the privacy and dignity of victims of crime pursuant to article II,
6 section 2.1, subsection C, Constitution of Arizona.

7 L. Except as provided in subsection M of this section, before it
8 releases records under this section [OR SECTION 8-807.01](#), the department shall
9 take whatever precautions it determines are reasonably necessary to protect
10 the identity and safety of a person who reports child abuse or neglect and to
11 protect any other person if the department believes that disclosure of the
12 DCS information would be likely to endanger the life or safety of any person.
13 The department is not required by this section to disclose DCS information if
14 the department demonstrates that disclosure would cause a specific, material
15 harm to a department investigation. The department is not required by this
16 section to disclose DCS information if, in consultation with the county
17 attorney, the county attorney demonstrates that disclosure would cause a
18 specific, material harm to a criminal investigation [OR PROSECUTION](#).

19 M. A person who is the subject of an unfounded report or complaint
20 made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this
21 chapter and who believes that the report or complaint was made in bad faith
22 or with malicious intent may petition a judge of the superior court to order
23 the department to release the DCS information. The petition shall
24 specifically set forth reasons supporting the person's belief that the report
25 or complaint was made in bad faith or with malicious intent. The court shall
26 review the DCS information in camera and the person filing the petition shall
27 be allowed to present evidence in support of the petition. If the court
28 determines that there is a reasonable question of fact as to whether the
29 report or complaint was made in bad faith or with malicious intent and that
30 disclosure of the identity of the person making the report or complaint would
31 not be likely to endanger the life or safety of the person making the report
32 or complaint, it shall provide a copy of the DCS information to the person
33 filing the petition and the original DCS information is subject to discovery
34 in a subsequent civil action regarding the making of the report or complaint.

35 N. The department shall provide the person who conducts a forensic
36 medical evaluation with any records the person requests, including social
37 history and family history regarding the child, the child's siblings and the
38 child's parents or guardians.

39 O. The department shall provide DCS information on request to a
40 prospective adoptive parent, foster parent or guardian, if the information
41 concerns a child the prospective adoptive parent, foster parent or guardian
42 seeks to adopt or provide care for.

43 P. If the department receives information that is confidential by law,
44 the department shall maintain the confidentiality of the information as
45 prescribed in the applicable law.

1 Q. A person may authorize the release of DCS information about the
2 person but may not waive the confidentiality of DCS information concerning
3 any other person.

4 R. The department may provide a summary of the outcome of a department
5 investigation to the person who reported the suspected child abuse or
6 neglect.

7 S. The department shall adopt rules to facilitate the accessibility of
8 DCS information.

9 T. The department may charge a fee for copying costs required to
10 prepare DCS information for release pursuant to this section OR SECTION
11 8-807.01.

12 U. A person who violates this section is guilty of a class 2
13 misdemeanor.

14 V. For the purposes of this section, ~~+~~

15 ~~1-~~ "DCS information" includes all information the department gathers
16 during the course of an investigation conducted under this chapter from the
17 time a file is opened and until it is closed. DCS information does not
18 include information that is contained in child welfare agency licensing
19 records.

20 ~~2. "Near fatality" means an act that, as certified by a physician,~~
21 ~~including the child's treating physician, places a child in serious or~~
22 ~~critical condition.~~

23 Sec. 5. Title 8, chapter 4, article 8, Arizona Revised Statutes, is
24 amended by adding section 8-807.01, to read:

25 8-807.01. Incidents involving fatality, near fatality or
26 criminal conduct allegation; definition

27 A. THE DEPARTMENT SHALL PROMPTLY PROVIDE DCS INFORMATION TO THE PUBLIC
28 REGARDING A CASE OF CHILD ABUSE, ABANDONMENT OR NEGLECT THAT HAS RESULTED IN
29 A FATALITY OR NEAR FATALITY AS FOLLOWS:

30 1. THE DEPARTMENT SHALL PROVIDE PRELIMINARY INFORMATION INCLUDING AT A
31 MINIMUM:

32 (a) IN THE CASE OF A FATALITY, THE NAME OF THE CHILD WHO HAS DIED.

33 (b) THE AGE, GENDER, COUNTY AND GENERAL LOCATION OF THE RESIDENCE OF
34 THE CHILD WHO HAS SUFFERED A FATALITY OR A NEAR FATALITY.

35 (c) THE FACT THAT A CHILD SUFFERED A NEAR FATALITY OR FATALITY AS THE
36 RESULT OF ABUSE, ABANDONMENT OR NEGLECT.

37 (d) THE NAME, AGE AND CITY, TOWN OR GENERAL LOCATION OF THE RESIDENCE
38 OF THE ALLEGED PERPETRATOR, IF AVAILABLE, UNLESS THE DISCLOSURE WOULD VIOLATE
39 THE PRIVACY OF VICTIMS OF CRIME PURSUANT TO ARTICLE II, SECTION 2.1,
40 CONSTITUTION OF ARIZONA.

41 (e) WHETHER THERE HAVE BEEN REPORTS, OR ANY CURRENT OR PAST CASES, OF
42 ABUSE, ABANDONMENT OR NEGLECT INVOLVING THE CHILD OR THE ALLEGED PERPETRATOR.

43 (f) ACTIONS TAKEN BY THE DEPARTMENT IN RESPONSE TO THE FATALITY OR
44 NEAR FATALITY OF THE CHILD.

1 (g) A DETAILED SYNOPSIS OF PRIOR REPORTS OR CASES OF ABUSE,
2 ABANDONMENT OR NEGLECT INVOLVING THE CHILD OR THE ALLEGED PERPETRATOR AND OF
3 THE ACTIONS TAKEN OR DETERMINATIONS MADE BY THE DEPARTMENT IN RESPONSE TO
4 THESE REPORTS OR CASES.

5 2. ON REQUEST BY ANY PERSON, THE DEPARTMENT SHALL PROMPTLY PROVIDE
6 ADDITIONAL DCS INFORMATION TO THE REQUESTOR IN A CASE OF CHILD ABUSE,
7 ABANDONMENT OR NEGLECT THAT HAS RESULTED IN A FATALITY OR A NEAR FATALITY OR
8 THAT INVOLVED A CRIMINAL CONDUCT ALLEGATION. BEFORE RELEASING ADDITIONAL DCS
9 INFORMATION, THE DEPARTMENT SHALL PROMPTLY NOTIFY THE COUNTY ATTORNEY OF ANY
10 DECISION TO RELEASE THAT INFORMATION, AND THE COUNTY ATTORNEY SHALL PROMPTLY
11 INFORM THE DEPARTMENT IF IT BELIEVES THE RELEASE WOULD CAUSE A SPECIFIC,
12 MATERIAL HARM TO A CRIMINAL INVESTIGATION OR PROSECUTION. AFTER CONSULTING
13 WITH THE COUNTY ATTORNEY, PURSUANT TO PARAGRAPH 3 OF THIS SUBSECTION, THE
14 DEPARTMENT SHALL PRODUCE TO THE REQUESTOR AS MUCH ADDITIONAL DCS INFORMATION
15 AS PROMPTLY AS POSSIBLE ABOUT A CASE OF CHILD ABUSE, ABANDONMENT OR NEGLECT
16 THAT RESULTED IN A FATALITY OR NEAR FATALITY OR THAT INVOLVED A CRIMINAL
17 CONDUCT ALLEGATION.

18 3. ON REQUEST, THE DEPARTMENT SHALL CONTINUE TO PROVIDE DCS
19 INFORMATION PROMPTLY TO THE PUBLIC ABOUT A FATALITY OR NEAR FATALITY OR A
20 CRIMINAL CONDUCT ALLEGATION UNLESS:

21 (a) AFTER CONSULTATION WITH THE COUNTY ATTORNEY, THE COUNTY ATTORNEY
22 DEMONSTRATES THAT RELEASE OF PARTICULAR DCS INFORMATION WOULD CAUSE A
23 SPECIFIC, MATERIAL HARM TO A CRIMINAL INVESTIGATION OR PROSECUTION.

24 (b) THE RELEASE WOULD VIOLATE SECTION 8-807, SUBSECTION A OR L OR THE
25 PRIVACY OF VICTIMS OF CRIME PURSUANT TO ARTICLE II, SECTION 2.1, CONSTITUTION
26 OF ARIZONA.

27 4. IF ANY PERSON BELIEVES THAT THE COUNTY ATTORNEY HAS FAILED TO
28 DEMONSTRATE THAT RELEASE WOULD CAUSE A SPECIFIC, MATERIAL HARM TO A CRIMINAL
29 INVESTIGATION OR PROSECUTION, THAT PERSON MAY FILE AN ACTION IN SUPERIOR
30 COURT PURSUANT TO TITLE 39, CHAPTER 1, ARTICLE 2 AND SECTION 8-807,
31 SUBSECTION J AND REQUEST THE COURT TO REVIEW THE DCS INFORMATION IN CAMERA TO
32 DETERMINE IF DISCLOSURE SHOULD BE ORDERED.

33 5. WITHIN NINETY DAYS AFTER THE DATE OF THE REPORT FOR INVESTIGATION
34 FOR A CASE INVOLVING A FATALITY OR A NEAR FATALITY, THE DEPARTMENT SHALL
35 PROVIDE TO THE PUBLIC A SUMMARY REPORT THAT:

36 (a) MAY INCLUDE ANY ACTIONS TAKEN BY THE DEPARTMENT IN RESPONSE TO THE
37 CASE, ANY CHANGES IN POLICIES OR PRACTICES THAT HAVE BEEN MADE TO ADDRESS ANY
38 ISSUES RAISED IN THE REVIEW OF THE CASE AND ANY RECOMMENDATIONS FOR FURTHER
39 CHANGES IN POLICIES, PRACTICES, RULES OR STATUTES TO ADDRESS THOSE ISSUES.

40 (b) SHALL INCLUDE THE INFORMATION PRESCRIBED IN SUBSECTION B OF THIS
41 SECTION IF THE CHILD WAS RESIDING IN THE CHILD'S HOME AND IN SUBSECTION C OF
42 THIS SECTION IF THE CHILD WAS PLACED IN AN OUT-OF-HOME PLACEMENT.

43 B. IF THE SUMMARY REPORT PRESCRIBED IN SUBSECTION A, PARAGRAPH 5 OF
44 THIS SECTION INVOLVES A CHILD WHO WAS RESIDING IN THE CHILD'S HOME, THE
45 SUMMARY REPORT SHALL CONTAIN A SUMMARY OF ALL OF THE FOLLOWING:

1 1. WHETHER SERVICES PURSUANT TO THIS CHAPTER WERE BEING PROVIDED TO
2 THE CHILD, A MEMBER OF THE CHILD'S FAMILY OR THE PERSON SUSPECTED OF THE
3 ABUSE OR NEGLECT AT THE TIME OF THE INCIDENT AND THE DATE OF THE LAST CONTACT
4 BEFORE THE INCIDENT BETWEEN THE ENTITY PROVIDING THE SERVICES AND THE PERSON
5 RECEIVING THE SERVICES.

6 2. WHETHER THE CHILD, A MEMBER OF THE CHILD'S FAMILY OR THE PERSON
7 SUSPECTED OF THE ABUSE OR NEGLECT WAS THE SUBJECT OF A REPORT FOR
8 INVESTIGATION AT THE TIME OF THE INCIDENT.

9 3. ALL INVOLVEMENT OF THE CHILD'S PARENTS AND OF THE PERSON SUSPECTED
10 OF THE ABUSE OR NEGLECT IN A SITUATION FOR WHICH A REPORT FOR INVESTIGATION
11 WAS MADE OR IN SERVICES PROVIDED PURSUANT TO THIS CHAPTER IN THE FIVE YEARS
12 PRECEDING THE INCIDENT INVOLVING A FATALITY OR A NEAR FATALITY.

13 4. ANY INVESTIGATION PURSUANT TO A REPORT FOR INVESTIGATION CONCERNING
14 THE CHILD, A MEMBER OF THE CHILD'S FAMILY OR THE PERSON SUSPECTED OF THE
15 ABUSE OR NEGLECT OR SERVICES PROVIDED TO THE CHILD OR THE CHILD'S FAMILY
16 SINCE THE DATE OF THE INCIDENT INVOLVING A FATALITY OR A NEAR FATALITY.

17 C. IF THE SUMMARY REPORT PRESCRIBED IN SUBSECTION A, PARAGRAPH 5 OF
18 THIS SECTION INVOLVES A CHILD WHO WAS IN OUT-OF-HOME PLACEMENT, THE SUMMARY
19 REPORT SHALL INCLUDE THE NAME OF ANY AGENCY THE LICENSEE WAS LICENSED BY, THE
20 LICENSING HISTORY OF THE OUT-OF-HOME PLACEMENT, INCLUDING THE TYPE OF LICENSE
21 HELD BY THE OPERATOR OF THE PLACEMENT, THE PERIOD FOR WHICH THE PLACEMENT HAS
22 BEEN LICENSED AND A SUMMARY OF ALL VIOLATIONS BY THE LICENSEE AND ANY OTHER
23 ACTIONS BY THE LICENSEE OR AN EMPLOYEE OF THE LICENSEE THAT CONSTITUTE A
24 SUBSTANTIAL FAILURE TO PROTECT AND PROMOTE THE HEALTH, SAFETY AND WELFARE OF
25 A CHILD.

26 D. FOR THE PURPOSES OF THIS SECTION, "NEAR FATALITY" MEANS AN ACT
27 THAT, AS CERTIFIED BY A PHYSICIAN, INCLUDING THE CHILD'S TREATING PHYSICIAN,
28 PLACES A CHILD IN SERIOUS OR CRITICAL CONDITION.

29 Sec. 6. Section 8-811, Arizona Revised Statutes, is amended to read:
30 8-811. Hearing process; definitions

31 A. The department shall notify a person who is alleged to have abused
32 or neglected a child that the department intends to substantiate the
33 allegation in the central registry pursuant to section 8-804 and of that
34 person's right:

35 1. To receive a copy of the report containing the allegation.

36 2. To a hearing before the entry into the central registry pursuant to
37 section 8-456, subsection D, paragraph 3, subdivision (a).

38 B. The department shall send the notice prescribed in subsection A of
39 this section by first class mail no more than fourteen days after completion
40 of the investigation.

41 C. A request for a hearing on the proposed finding must be received by
42 the department within fourteen days after receipt of the notice.

43 D. The department shall not disclose any information related to the
44 investigation of the allegation except as provided in sections 8-456, 8-807,
45 8-807.01 and 13-3620.

1 E. If a request for a hearing is made pursuant to subsection C of this
2 section, the department shall conduct a review before the hearing. The
3 department shall provide an opportunity for the accused person to provide
4 written or verbal information to support the position that the department
5 should not substantiate the allegation. If the department determines that
6 there is no probable cause that the accused person engaged in the alleged
7 conduct, the department shall amend the information or finding in the report
8 and shall notify the person and a hearing shall not be held.

9 F. Notwithstanding section 41-1092.03, the notification prescribed in
10 subsection A of this section shall also state that if the department does not
11 amend the information or finding in the report as prescribed in subsection E
12 of this section within sixty days after it receives the request for a hearing
13 the person has a right to a hearing unless:

14 1. The person is a party in a civil, criminal or administrative
15 proceeding in which the allegations of abuse or neglect are at issue.

16 2. A court or administrative law judge has made findings as to the
17 alleged abuse or neglect.

18 3. A finding has been made by a court pursuant to section 8-844,
19 subsection C that a child is dependent based upon an allegation of abuse or
20 neglect.

21 G. If the department does not amend the information or finding in the
22 report as prescribed in subsection E of this section, the department shall
23 notify the office of administrative hearings of the request for a hearing no
24 later than five days after completion of the review. The department shall
25 forward all records, reports and other relevant information with the request
26 for hearing within ten days. The department shall redact the identity of the
27 reporting source before transmitting the information to the office of
28 administrative hearings.

29 H. The office of administrative hearings shall hold a hearing pursuant
30 to title 41, chapter 6, article 10, with the following exceptions:

31 1. A child who is the victim of or a witness to abuse or neglect is
32 not required to testify at the hearing.

33 2. A child's hearsay statement is admissible if the time, content and
34 circumstances of that statement are sufficiently indicative of its
35 reliability.

36 3. The identity of the reporting source of the abuse or neglect shall
37 not be disclosed without the permission of the reporting source.

38 4. The reporting source is not required to testify.

39 5. A written statement from the reporting source may be admitted if
40 the time, content and circumstances of that statement are sufficiently
41 indicative of its reliability.

42 6. If the person requesting the hearing fails to appear, the hearing
43 shall be vacated and a substantiated finding of abuse or neglect shall be
44 entered. On good cause shown, the hearing may be rescheduled if the request

1 is made within fifteen calendar days after the date of the notice vacating
2 the hearing for failure to appear.

3 I. On completion of the presentation of evidence, the administrative
4 law judge shall determine if probable cause exists to sustain the
5 department's finding that the parent, guardian or custodian abused or
6 neglected the child. If the administrative law judge determines that
7 probable cause does not exist to sustain the department's finding, the
8 administrative law judge shall order the department to amend the information
9 or finding in the report.

10 J. When the department is requested to verify pursuant to section
11 8-807, if the central registry contains a substantiated report about a
12 specific person, the department shall determine if the report was taken after
13 January 1, 1998. If the report was taken after January 1, 1998, the
14 department shall notify the requestor of the substantiated finding. If the
15 report was taken before January 1, 1998, the department shall notify the
16 person of the person's right to request an administrative hearing. The
17 department shall not send this notification if the person was a party in a
18 civil, criminal or administrative proceeding in which the allegations of
19 abuse or neglect were at issue. The provisions of this section shall apply
20 to the person's appeal.

21 K. The department shall provide the parent, guardian or custodian who
22 is the subject of the investigation and the person who reported the suspected
23 child abuse or neglect if that person is the child's parent, guardian or
24 custodian with a copy of the outcome of the investigation at one of the
25 following times:

- 26 1. If the report is unsubstantiated.
- 27 2. If probable cause exists that abuse or neglect has occurred but a
28 specific person is not identified as having abused or neglected the child.
- 29 3. After the time to request a hearing has lapsed pursuant to
30 subsection C of this section without the department receiving a request for a
31 hearing.
- 32 4. After a final administrative decision has been made pursuant to
33 section 41-1092.08.

34 L. For the purposes of this section:

- 35 1. "Amend the finding" means to change the finding from substantiated
36 to unsubstantiated.
- 37 2. "Amend the information" means to change information identifying the
38 accused of having abused or neglected a child.

39 Sec. 7. Section 13-4434, Arizona Revised Statutes, is amended to read:
40 13-4434. Victim's right to privacy; exception; definitions

41 A. The victim has the right at any court proceeding not to testify
42 regarding any identifying or locating information unless the victim consents
43 or the court orders disclosure on finding that a compelling need for the
44 information exists. A court proceeding on the motion shall be in camera.

1 B. A victim's identifying and locating information that is obtained,
2 compiled or reported by a law enforcement agency or prosecution agency shall
3 be redacted by the originating agency and prosecution agencies from records
4 pertaining to the criminal case involving the victim, including discovery
5 disclosed to the defendant.

6 C. Subsection B OF THIS SECTION does not apply to:

7 1. The victim's name EXCEPT, IF THE VICTIM IS A MINOR, THE VICTIM'S
8 NAME MAY BE REDACTED FROM PUBLIC RECORDS PERTAINING TO THE CRIME IF THE
9 COUNTERVAILING INTERESTS OF CONFIDENTIALITY, PRIVACY, THE RIGHTS OF THE MINOR
10 OR THE BEST INTERESTS OF THIS STATE OUTWEIGH THE PUBLIC INTEREST IN
11 DISCLOSURE.

12 2. Any records that are transmitted between law enforcement and
13 prosecution agencies or a court.

14 3. Any records if the victim OR, IF THE VICTIM IS A MINOR, THE
15 VICTIM'S REPRESENTATIVE AS DESIGNATED UNDER SECTION 13-4403 has consented to
16 the release of the information.

17 4. The general location at which the reported crime occurred.

18 D. For the purposes of this section:

19 1. "Identifying information" includes a victim's date of birth, social
20 security number and official state or government issued driver license or
21 identification number.

22 2. "Locating information" includes the victim's address, telephone
23 number, e-mail address and place of employment.