

REFERENCE TITLE: neglect; prayer; religious beliefs; exception

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

# HB 2283

Introduced by  
Representative Townsend

AN ACT

AMENDING SECTIONS 8-201.01, 8-802 AND 8-807, ARIZONA REVISED STATUTES;  
RELATING TO CHILD SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-201.01, Arizona Revised Statutes, is amended to  
3 read:

4 8-201.01. Prohibitions; corroboration

5 A. Notwithstanding any other provision of this chapter or chapter 4,  
6 articles 8, 9, 10, 11, 12, 13 and 14 of this title:

7 1. A child who in good faith is being furnished Christian Science  
8 treatment by a duly accredited practitioner shall not, for that reason alone,  
9 be considered to be an abused, neglected or dependent child.

10 2. A child whose parent, guardian or custodian refuses to put the  
11 child on a psychiatric medication or questions the use of a psychiatric  
12 medication shall not be considered to be an abused, neglected or dependent  
13 child for that reason alone.

14 3. A CHILD WHO IN GOOD FAITH IS BEING FURNISHED TREATMENT THROUGH  
15 PRAYER OR OTHER RELIGIOUS RITE SHALL NOT, FOR THAT REASON ALONE, BE  
16 CONSIDERED TO BE AN ABUSED, NEGLECTED OR DEPENDENT CHILD.

17 4. A CHILD WHOSE PARENT, GUARDIAN OR CUSTODIAN TAKES THE CHILD TO  
18 ANOTHER MEDICAL PRACTITIONER FOR A SECOND OPINION SHALL NOT, FOR THAT REASON  
19 ALONE, BE CONSIDERED TO BE AN ABUSED, NEGLECTED OR DEPENDENT CHILD.

20 B. BEFORE THE DEPARTMENT MAY REMOVE A CHILD FROM A HOME FOR ALLEGED  
21 NEGLECT BASED ON INADEQUATE PROVISION OF MEDICAL TREATMENT, THE DEPARTMENT  
22 MUST HAVE THE ALLEGATION CORROBORATED BY AT LEAST THREE PHYSICIANS WHO ARE  
23 LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 AND WHOSE PRACTICES ARE  
24 UNAFFILIATED.

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

26 8-802. Child safety worker; fingerprint clearance cards;  
27 interview requirements; temporary custody limit;  
28 cooperation and coordination; alteration of files;  
29 violation; classification

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

39 B. A worker shall not interview a child without the prior written  
40 consent of the parent, guardian or custodian of the child unless either:

41 1. The child initiates contact with the worker.

42 2. The child who is interviewed is the subject of or is the sibling of  
43 or living with the child who is the subject of an abuse or abandonment  
44 investigation pursuant to section 8-456.

1           3. The interview is conducted pursuant to the terms of the protocols  
2 established pursuant to section 8-817.

3           C. A child shall not remain in temporary custody for a period  
4 exceeding seventy-two hours, excluding Saturdays, Sundays and holidays,  
5 unless a dependency petition is filed. If a petition is not filed and the  
6 child is released to the child's parent, guardian or custodian, the worker  
7 shall file a report of removal with the central registry within seventy-two  
8 hours of the child's release. The report shall include:

9           1. The dates of previous referrals, investigations or temporary  
10 custody.

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

13           D. All child safety workers shall be trained and demonstrate  
14 competency in:

15           1. The duty to protect the legal rights of children and families from  
16 the time of the initial contact through treatment. The training shall  
17 include knowledge of a child's rights as a victim of crime.

18           2. The legal rights of parents.

19           3. Impact and intervention practices related to adverse childhood  
20 experiences, culturally and linguistically appropriate service delivery,  
21 domestic violence, family engagement, communication with special populations  
22 and trauma informed responses.

23           E. All child safety workers shall cooperate and coordinate with the  
24 office of child welfare investigations to carry out the purposes of section  
25 8-471.

26           F. All child safety workers and child welfare investigations workers  
27 shall cooperate and coordinate with the inspections bureau to carry out the  
28 purposes of section 8-458.

29           G. All child welfare investigations workers and inspections bureau  
30 workers shall cooperate and coordinate with the rest of the department to  
31 achieve the purposes of this title.

32           H. A CHILD SAFETY WORKER OR A CHILD WELFARE INVESTIGATIONS WORKER MAY  
33 NOT ENTER A RESIDENCE WITHOUT A WARRANT UNLESS AN ADULT WHO RESIDES IN THE  
34 RESIDENCE CONSENTS TO THE ENTRY.

35           ~~H.~~ I. Any person who alters a client file for the purpose of fraud or  
36 misrepresentation is guilty of a class 2 misdemeanor.

37           Sec. 3. Section 8-807, Arizona Revised Statutes, is amended to read:  
38 8-807. DCS information; public record; use; confidentiality;  
39 violation; classification; definitions

40           A. DCS information shall be maintained by the department as required  
41 by federal law as a condition of the allocation of federal monies to this  
42 state. All exceptions for the public release of DCS information shall be  
43 construed as openly as possible under federal law.

44           B. The department, or a person who receives DCS information pursuant  
45 to this subsection, shall provide DCS information to a federal agency, a

1 state agency, a tribal agency, a county or municipal agency, a law  
2 enforcement agency, a prosecutor, an attorney or a guardian ad litem  
3 representing a child victim of crime pursuant to article II, section 2.1,  
4 Constitution of Arizona, a school, a community service provider, a contract  
5 service provider or any other person that is providing services pursuant to  
6 this article or article 9, 10, 11, 12, 13 or 14 of this chapter:

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

11 2. To enforce or prosecute any violation involving child abuse or  
12 neglect.

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

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

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

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

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

28 F. The department:

29 1. May provide DCS information to confirm, clarify or correct  
30 information concerning an allegation or actual instance of child abuse or  
31 neglect that has been made public by sources outside the department.

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

35 (a) The department shall provide preliminary information including at  
36 a minimum:

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

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

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

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

1 (v) Actions taken by the department in response to the fatality or  
2 near fatality of the child.

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

7 (b) On request by any person, the department shall promptly provide  
8 additional DCS information to the requestor. 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. After consulting with the county  
13 attorney, pursuant to subdivision (c) of this paragraph, the department shall  
14 produce to the requestor as much additional DCS information as promptly as  
15 possible about a case of child abuse, abandonment or neglect that resulted in  
16 a fatality or near fatality.

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

19 (i) After consultation with the county attorney, the county attorney  
20 demonstrates that release of particular DCS information would cause a  
21 specific, material harm to a criminal investigation.

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

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

30 3. May provide DCS information to a person who is conducting bona fide  
31 research, the results of which might provide DCS information that is  
32 beneficial in improving the department.

33 4. May provide access to DCS information to the parent, guardian or  
34 custodian of a child if the DCS information is reasonably necessary to  
35 promote the safety, permanency and well-being of the child.

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

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

41 I. To provide oversight of the department, the department shall  
42 provide access to DCS information to the following persons, if the DCS  
43 information is reasonably necessary for the person to perform the person's  
44 official duties:

45 1. Federal or state auditors.

1           2. Persons conducting any accreditation deemed necessary by the  
2 department.

3           3. A standing committee of the legislature or a committee appointed by  
4 the president of the senate or the speaker of the house of representatives  
5 for purposes of conducting investigations related to the legislative  
6 oversight of the department. This information shall not be further disclosed  
7 unless a court has ordered the disclosure of this information, the  
8 information has been disclosed in a public or court record, or the  
9 information has been disclosed in the course of a public meeting or court  
10 proceeding.

11           4. A legislator who requests DCS information in the regular course of  
12 the legislator's duties. **A LEGISLATOR MAY DISCUSS THIS INFORMATION WITH**  
13 **ANOTHER LEGISLATOR IF THE OTHER LEGISLATOR HAS SIGNED THE FORM PRESCRIBED IN**  
14 **SUBDIVISION (d) OF THIS PARAGRAPH.** This information shall not be further  
15 disclosed unless a court has ordered the disclosure of this information, the  
16 information has been disclosed in a public or court record, or the  
17 information has been disclosed in the course of a public meeting or court  
18 proceeding. To request a file pursuant to this paragraph:

19           (a) The legislator shall submit a written request for DCS information  
20 to the presiding officer of the body of which the state legislator is a  
21 member. The request shall state the name of the person whose case file is to  
22 be reviewed and any other information that will assist the department in  
23 locating the file.

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

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

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

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

36           J. A person who has been denied DCS information regarding a fatality  
37 or near fatality caused by abuse, abandonment or neglect pursuant to  
38 subsection F, paragraph 2 or subsection L of this section may bring a special  
39 action pursuant to section 39-121.02 in the superior court to order the  
40 department to release that DCS information. A legislator has standing to  
41 bring or to join a special action regarding the release of DCS information or  
42 to challenge the redaction of released DCS information. The plaintiff shall  
43 provide notice to the county attorney, who has standing and may participate  
44 in the action. The court shall review the requested records in camera and  
45 order disclosure consistent with subsection A, subsection F, paragraph 2 and

1 subsection L of this section. The court shall take reasonable steps to  
 2 prevent any clearly unwarranted invasions of privacy and protect the privacy  
 3 and dignity of victims of crime pursuant to article II, section 2.1,  
 4 subsection C, Constitution of Arizona.

5 K. The department or a person who is not specifically authorized by  
 6 this section to obtain DCS information may petition a judge of the superior  
 7 court to order the department to release DCS information. The plaintiff  
 8 shall provide notice to the county attorney, who has standing and may  
 9 participate in the action. The court shall review the requested records in  
 10 camera and shall balance the rights of the parties who are entitled to  
 11 confidentiality pursuant to this section against the rights of the parties  
 12 who are seeking the release of the DCS information. The court may release  
 13 otherwise confidential DCS information only if the rights of the parties  
 14 seeking the DCS information and any benefits from releasing the DCS  
 15 information outweigh the rights of the parties who are entitled to  
 16 confidentiality and any harm that may result from releasing the DCS  
 17 information. The court shall take reasonable steps to prevent any clearly  
 18 unwarranted invasions of privacy and protect the privacy and dignity of  
 19 victims of crime pursuant to article II, section 2.1, subsection C,  
 20 Constitution of Arizona.

21 L. Except as provided in subsection M of this section, before it  
 22 releases records under this section, the department shall take whatever  
 23 precautions it determines are reasonably necessary to protect the identity  
 24 and safety of a person who reports child abuse or neglect and to protect any  
 25 other person if the department believes that disclosure of the DCS  
 26 information would be likely to endanger the life or safety of any person.  
 27 The department is not required by this section to disclose DCS information if  
 28 the department demonstrates that disclosure would cause a specific, material  
 29 harm to a department investigation. The department is not required by this  
 30 section to disclose DCS information if, in consultation with the county  
 31 attorney, the county attorney demonstrates that disclosure would cause a  
 32 specific, material harm to a criminal investigation.

33 M. A person who is the subject of an unfounded report or complaint  
 34 made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this  
 35 chapter and who believes that the report or complaint was made in bad faith  
 36 or with malicious intent may petition a judge of the superior court to order  
 37 the department to release the DCS information. The petition shall  
 38 specifically set forth reasons supporting the person's belief that the report  
 39 or complaint was made in bad faith or with malicious intent. The court shall  
 40 review the DCS information in camera and the person filing the petition shall  
 41 be allowed to present evidence in support of the petition. If the court  
 42 determines that there is a reasonable question of fact as to whether the  
 43 report or complaint was made in bad faith or with malicious intent and that  
 44 disclosure of the identity of the person making the report or complaint would  
 45 not be likely to endanger the life or safety of the person making the report

1 or complaint, it shall provide a copy of the DCS information to the person  
2 filing the petition and the original DCS information is subject to discovery  
3 in a subsequent civil action regarding the making of the report or complaint.

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

8 O. The department shall provide DCS information on request to a  
9 prospective adoptive parent, foster parent or guardian, if the information  
10 concerns a child the prospective adoptive parent, foster parent or guardian  
11 seeks to adopt or provide care for.

12 P. If the department receives information that is confidential by law,  
13 the department shall maintain the confidentiality of the information as  
14 prescribed in the applicable law.

15 Q. A person may authorize the release of DCS information about the  
16 person but may not waive the confidentiality of DCS information concerning  
17 any other person.

18 R. The department may provide a summary of the outcome of a department  
19 investigation to the person who reported the suspected child abuse or  
20 neglect.

21 S. The department shall adopt rules to facilitate the accessibility of  
22 DCS information.

23 T. The department may charge a fee for copying costs required to  
24 prepare DCS information for release pursuant to this section.

25 U. A person who violates this section is guilty of a class 2  
26 misdemeanor.

27 V. For the purposes of this section:

28 1. "DCS information" includes all information the department gathers  
29 during the course of an investigation conducted under this chapter from the  
30 time a file is opened and until it is closed. DCS information does not  
31 include information that is contained in child welfare agency licensing  
32 records.

33 2. "Near fatality" means an act that, as certified by a physician,  
34 including the child's treating physician, places a child in serious or  
35 critical condition.