

REFERENCE TITLE: internet crimes against children; fund

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

HB 2517

Introduced by

Representatives Boyer, Allen J, Alston, Andrade, Barton, Benally, Bolding, Borrelli, Bowers, Brophy McGee, Cardenas, Carter, Cobb, Coleman, Farnsworth E, Finchem, Gabaldón, Hale, Kern, Lawrence, McCune Davis, Meyer, Rios, Sherwood, Steele, Townsend, Velasquez, Senators Begay, Bradley, Burges, Cajero Bedford, Contreras, Dalessandro, Driggs, Farley, Hobbs, Miranda, Smith: Representatives Ackerley, Campbell, Clark, Espinoza, Fann, Fernandez, Friese, Gonzales, Gray, Larkin, Leach, Livingston, Lovas, Mach, Mendez, Mesnard, Mitchell, Montenegro, Norgaard, Olson, Otondo, Petersen, Pratt, Rivero, Robson, Saldate, Shope, Thorpe, Weninger, Senators Ableser, Allen, Barto, Dial, Farnsworth D, Griffin, Pierce, Quezada, Shooter, Ward, Worsley, Yee

AN ACT

AMENDING SECTIONS 5-572, 8-509 AND 8-514.03, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 35.1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 13-3562, 13-3563 AND 13-3564; AMENDING TITLE 41, CHAPTER 1, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-199; AMENDING SECTION 41-1727, ARIZONA REVISED STATUTES; RELATING TO INTERNET CRIMES AGAINST CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 5-572, Arizona Revised Statutes, is amended to
3 read:

4 5-572. Use of monies in state lottery fund; report

5 A. If there are any bonds or bond related obligations payable from the
6 state lottery revenue bond debt service fund, the state lottery revenue bond
7 debt service fund shall be secured by a first lien on the monies in the state
8 lottery fund after the payment of operating costs of the lottery, as
9 prescribed in section 5-555, subsection A, paragraph 1, until the state
10 lottery bond debt service fund contains sufficient monies to meet all the
11 requirements for the current period as required by the bond documents. Debt
12 service for revenue bonds issued pursuant to this chapter shall be paid first
13 from monies that would have otherwise been deposited pursuant to this section
14 in the state general fund. After the requirements for the current period
15 have been satisfied as required by the bond documents, the monies in the
16 state lottery fund shall be expended for the expenses of the commission
17 incurred in carrying out its powers and duties and in the operation of the
18 lottery.

19 B. Of the monies remaining in the state lottery fund each fiscal year
20 after appropriations and deposits authorized in subsection A of this section,
21 ten million dollars shall be deposited in the Arizona game and fish
22 commission heritage fund established by section 17-297.

23 C. Of the monies remaining in the state lottery fund each fiscal year
24 after appropriations and deposits authorized in subsections A and B of this
25 section, five million dollars shall be allocated to the department of child
26 safety for the healthy families program established by section 8-481, four
27 million dollars shall be allocated to the Arizona board of regents for the
28 Arizona area health education system established by section 15-1643, three
29 million dollars shall be allocated to the department of health services to
30 fund the teenage pregnancy prevention programs established in Laws 1995,
31 chapter 190, sections 2 and 3, two million dollars shall be allocated to the
32 department of health services for the health start program established by
33 section 36-697, two million dollars shall be deposited in the disease control
34 research fund established by section 36-274 and one million dollars shall be
35 allocated to the department of health services for the federal women, infants
36 and children food program. The allocations in this subsection shall be
37 adjusted annually according to changes in the GDP price deflator as defined
38 in section 41-563 and the allocations are exempt from the provisions of
39 section 35-190 relating to lapsing of appropriations. If there are not
40 sufficient monies available pursuant to this subsection, the allocation of
41 monies for each program shall be reduced on a pro rata basis.

42 D. If the state lottery director determines that monies available to
43 the state general fund may not equal eighty-four million one hundred fifty
44 thousand dollars in a fiscal year, the director shall not authorize deposits
45 to the Arizona game and fish commission heritage fund pursuant to subsection

1 B of this section until the deposits to the state general fund equal
2 eighty-four million one hundred fifty thousand dollars in a fiscal year.

3 E. Of the monies remaining in the state lottery fund each fiscal year
4 after appropriations and deposits authorized in subsections A through D of
5 this section, one million dollars or the remaining balance in the fund,
6 whichever is less, is appropriated to the department of economic security for
7 grants to nonprofit organizations, including faith based organizations, for
8 homeless emergency and transitional shelters and related support services.
9 The department of economic security shall submit a report on the amounts,
10 recipients, purposes and results of each grant to the governor, the speaker
11 of the house of representatives and the president of the senate on or before
12 December 31 of each year for the prior fiscal year and shall provide a copy
13 of this report to the secretary of state.

14 F. Of the monies remaining in the state lottery fund each fiscal year
15 after appropriations and deposits authorized in subsections A through E of
16 this section, and after a total of at least ninety-nine million six hundred
17 forty thousand dollars has been deposited in the state general fund, three
18 million five hundred thousand dollars shall be deposited in the Arizona
19 competes fund established by section 41-1545.01. The balance in the state
20 lottery fund remaining after deposits into the Arizona competes fund shall be
21 deposited in the university capital improvement lease-to-own and bond fund
22 established by section 15-1682.03, up to a maximum of eighty ~~per-cent~~ PERCENT
23 of the total annual payments of lease-to-own and bond agreements entered into
24 by the Arizona board of regents.

25 G. OF THE MONIES REMAINING IN THE STATE LOTTERY FUND EACH FISCAL YEAR
26 AFTER APPROPRIATIONS AND DEPOSITS AUTHORIZED IN SUBSECTIONS A THROUGH F OF
27 THIS SECTION, FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS SHALL BE DEPOSITED
28 IN THE INTERNET CRIMES AGAINST CHILDREN ENFORCEMENT FUND ESTABLISHED BY
29 SECTION 41-199 AND FIVE HUNDRED THOUSAND DOLLARS SHALL BE DEPOSITED IN THE
30 VICTIMS' RIGHTS ENFORCEMENT FUND ESTABLISHED BY SECTION 41-1727 FOR THE
31 PURPOSES OF SECTION 13-3564.

32 ~~G.~~ H. All monies remaining in the state lottery fund after the
33 appropriations and deposits authorized in this section shall be deposited in
34 the state general fund.

35 ~~H.~~ I. Except for monies expended for debt service of revenue bonds as
36 provided in subsection A of this section, monies expended under subsection A
37 of this section are subject to legislative appropriation.

38 Sec. 2. Section 8-509, Arizona Revised Statutes, is amended to read:

39 8-509. Licensing of foster homes; renewal of license;
40 provisional license; exemption from licensure;
41 immunization requirements

42 A. The division shall license and certify foster homes. Licenses are
43 valid for a period of two years.

44 B. The division shall not issue a license without satisfactory proof
45 that the foster parent or parents have completed six actual hours of approved

1 initial foster parent training as set forth in section 8-503 and that each
2 foster parent and each other adult member of the household has **CONSENTED IN**
3 **WRITING TO A SEARCH BY THE DIVISION OF ANY COMPUTER THAT IS IN THE HOME AND**
4 **HAS** a valid fingerprint clearance card issued pursuant to section 41-1758.07.
5 The foster parent and each other adult member of the household must certify
6 on forms that are provided by the division and that are notarized whether the
7 foster parent or other adult member of the household is awaiting trial on or
8 has ever been convicted of any of the criminal offenses listed in section
9 41-1758.07, subsections B and C in this state or similar offenses in another
10 state or jurisdiction.

11 C. The division shall not renew a license without satisfactory proof
12 that the foster parent or parents have completed six actual hours of approved
13 ongoing foster parent training per year as set forth in section 8-503.

14 D. Notwithstanding the requirements of subsections B and C of this
15 section, if the division determines a condition of hardship to the foster
16 parent or parents, the division may issue a provisional license for a period
17 not to exceed six months. A provisional license may not be renewed.

18 E. Child welfare agencies that submit foster homes for licensing shall
19 conduct an investigation of the foster home pursuant to licensing rules of
20 the division. The division shall conduct investigations of all other foster
21 homes. If the foster home meets all requirements set by the division, the
22 agency shall submit an application stating the foster home's qualifications
23 to the division. The agency may also recommend the types of licensing and
24 certification to be granted to the foster home.

25 F. The division shall accept an adoptive home certification study as a
26 licensing home study if the study has been updated within the past three
27 months to include the information necessary to determine whether the home
28 meets foster care licensing standards.

29 G. This section does not apply if the child is placed in a home by a
30 means other than by court order and if the home does not receive compensation
31 from this state or any political subdivision of this state.

32 H. The division does not prohibit a person operating a licensed foster
33 home from applying for or receiving compensation as a foster home parent due
34 to employment with this state.

35 I. The division shall not require a foster parent to immunize the
36 foster parent's natural or adoptive children as a condition of foster home
37 licensure.

38 J. A licensee may modify the renewal date of a license issued pursuant
39 to this section by submitting an application for modification of renewal date
40 with the division on a form prescribed by the division. The licensee must
41 specify the new month of renewal on the application. The modified renewal
42 date must be ~~prior to~~ **BEFORE**, but not more than six months earlier than, the
43 existing renewal date.

- 1 1. Family assessment.
- 2 2. Case management.
- 3 3. Child day care.
- 4 4. Housing search and relocation.
- 5 5. Parenting skills training.
- 6 6. Supportive intervention and guidance counseling.
- 7 7. Transportation.
- 8 8. Emergency services.
- 9 9. Parent aid services.
- 10 10. Respite services.
- 11 11. Additional services that the department determines are necessary to
- 12 meet the needs of the child and family.

13 H. The department of child safety shall evaluate biannually the
14 performance of the kinship foster care program. On or before November 1, the
15 department shall submit a report to the speaker of the house of
16 representatives, the president of the senate and the governor and shall
17 provide a copy of this report to the secretary of state. The report shall
18 contain the following information:

- 19 1. The demographics and number of children placed with relative
- 20 caregivers.
- 21 2. The demographics of kinship foster caregivers.
- 22 3. The number of relative children per kinship foster care family.
- 23 4. The department's success at maintaining kinship foster care
- 24 placements.
- 25 5. The type of services provided to kinship foster care families.
- 26 6. The cost of services provided to kinship foster care families
- 27 compared to the cost of out-of-home placements.
- 28 7. Recommendations regarding program improvement.

29 Sec. 4. Title 13, chapter 35.1, Arizona Revised Statutes, is amended
30 by adding sections 13-3562, 13-3563 and 13-3564, to read:

31 13-3562. Notice to communication service provider of website
32 hosting alleged sexual exploitation of children

33 A. IF A LAW ENFORCEMENT AGENCY RECEIVES INFORMATION THAT A
34 COMMUNICATION SERVICE PROVIDER IS HOSTING A WEBSITE THAT CONTAINS AN ALLEGED
35 VIOLATION OF THIS CHAPTER, THE LAW ENFORCEMENT AGENCY SHALL NOTIFY THE
36 COMMUNICATION SERVICE PROVIDER BY SERVING A NOTICE OF THE ALLEGED VIOLATION
37 ON THE STATUTORY AGENT OF THE COMMUNICATION SERVICE PROVIDER.

38 B. THE NOTICE SHALL INCLUDE SPECIFIC INFORMATION ON THE LOCATION OF
39 THE ALLEGED VIOLATION.

40 13-3563. Evidence; defendant's possession prohibited

41 IN ANY PROSECUTION FOR A VIOLATION OF THIS CHAPTER, THE DEFENDANT, THE
42 DEFENDANT'S ATTORNEY OR ANY PERSON WHO IS EMPLOYED BY OR WHO IS ASSISTING THE
43 DEFENDANT IS PROHIBITED FROM REMOVING ANY VISUAL DEPICTION OR ANY COMPUTER OR
44 OTHER DEVICE THAT CONTAINS A VISUAL DEPICTION THAT IS ALLEGED TO BE IN
45 VIOLATION OF THIS CHAPTER AND THAT IS IN THE POSSESSION OF A LAW ENFORCEMENT

1 AGENCY OR THE PROSECUTOR. AN EXAMINATION OF THIS EVIDENCE MUST BE PERMITTED
2 AT REASONABLE TIMES AND BE CONDUCTED AT THE LAW ENFORCEMENT AGENCY OR THE
3 PROSECUTOR'S OFFICE.

4 13-3564. Appointment of guardian ad litem; minor victim in a
5 visual depiction

6 IN ANY PROSECUTION FOR A VIOLATION OF THIS CHAPTER THAT INVOLVES THE
7 VISUAL DEPICTION OF A MINOR THE COURT SHALL APPOINT AN ATTORNEY AS GUARDIAN
8 AD LITEM TO PROTECT AND ENFORCE THE MINOR VICTIM'S RIGHTS AS A CRIME VICTIM.

9 Sec. 5. Title 41, chapter 1, article 5, Arizona Revised Statutes, is
10 amended by adding section 41-199, to read:

11 41-199. Internet crimes against children enforcement fund; use;
12 reporting

13 A. THE INTERNET CRIMES AGAINST CHILDREN ENFORCEMENT FUND IS
14 ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 5-572 AND
15 MONIES AVAILABLE FROM ANY OTHER SOURCE. THE ATTORNEY GENERAL SHALL
16 ADMINISTER THE FUND.

17 B. SUBJECT TO LEGISLATIVE APPROPRIATION, THE ATTORNEY GENERAL SHALL
18 USE MONIES IN THE FUND TO ENTER INTO ONE OR MORE INTERGOVERNMENTAL AGREEMENTS
19 TO CONTINUE THE OPERATION OF THE FEDERALLY RECOGNIZED INTERNET CRIMES AGAINST
20 CHILDREN TASK FORCE PROGRAM THAT COORDINATES A NATIONAL NETWORK OF
21 COORDINATED TASK FORCES THAT ASSIST FEDERAL, STATE, LOCAL AND TRIBAL LAW
22 ENFORCEMENT AGENCIES IN INVESTIGATIONS, FORENSIC EXAMINATIONS AND
23 PROSECUTIONS RELATED TO TECHNOLOGY-FACILITATED SEXUAL EXPLOITATION OF
24 CHILDREN AND INTERNET CRIMES AGAINST CHILDREN. WHEN ENTERING INTO AGREEMENTS
25 PURSUANT TO THIS SUBSECTION, CONSIDERATION SHALL BE GIVEN TO ENTITIES THAT
26 HIRE AND EQUIP VETERANS WHO ARE WOUNDED, ILL OR INJURED AS DIGITAL FORENSIC
27 ANALYSTS OR INVESTIGATORS TO SUPPORT CHILD EXPLOITATION INVESTIGATIONS.

28 C. THE ATTORNEY GENERAL SHALL SUBMIT AN EXPENDITURE PLAN TO THE JOINT
29 LEGISLATIVE BUDGET COMMITTEE FOR REVIEW BEFORE SPENDING ANY MONIES NOT
30 IDENTIFIED IN THE ATTORNEY GENERAL'S PREVIOUS EXPENDITURE PLANS. WITHIN
31 THIRTY DAYS AFTER THE LAST DAY OF EACH CALENDAR QUARTER, THE ATTORNEY GENERAL
32 SHALL PROVIDE A SUMMARY OF QUARTERLY AND YEAR-TO-DATE EXPENDITURES AND
33 PROGRESS TO THE JOINT LEGISLATIVE BUDGET COMMITTEE, INCLUDING ANY PRIOR YEAR
34 APPROPRIATIONS THAT WERE NONLAPSING.

35 Sec. 6. Section 41-1727, Arizona Revised Statutes, is amended to read:
36 41-1727. Victims' rights enforcement fund; use; reporting

37 A. The victims' rights enforcement fund is established consisting of
38 monies collected pursuant to ~~section~~ SECTIONS 5-572 AND 12-116.09 and monies
39 available from any other source. The department shall administer the fund,
40 shall distribute the monies to qualifying organizations and entities and may
41 use up to five ~~per-cent~~ PERCENT of the monies deposited in the fund for its
42 administrative costs. Monies in the fund are continuously appropriated.

43 B. On application, the department shall annually distribute monies
44 from the fund to nonprofit organizations and entities that can demonstrate a

1 five-year history of providing, without cost to the crime victim, each of the
2 following services to crime victims:

3 1. Legal representation to enforce the rights of crime victims as
4 counsel of record in criminal cases.

5 2. Social services to assist the crime victim during the course of the
6 legal representation.

7 C. An organization or entity that applies for monies pursuant to this
8 section may establish its qualifications through an attorney who otherwise
9 meets the requirements of subsection B of this section.

10 D. An organization that qualifies under the terms of subsection B of
11 this section shall be funded to provide the services included in subsection B
12 of this section without limitation on the types of crimes against victims,
13 including administrative support for the services. Each organization and
14 entity that receives funding pursuant to this section shall submit an annual
15 report to the department that details the organization's or entity's budget
16 for the program and all of the sources and amounts of public monies that are
17 spent on the program that provides the services to crime victims included in
18 subsection B of this section. The report shall include the following:

19 1. The expenditures of the public monies.

20 2. The level of crime victim satisfaction with the services.

21 E. This section does not require the reporting of the name or personal
22 identifying information of any crime victim or crime victim advocate, any
23 information protected under the attorney-client privilege or any information
24 the crime victim requests to remain private.

25 Sec. 7. Emergency

26 This act is an emergency measure that is necessary to preserve the
27 public peace, health or safety and is operative immediately as provided by
28 law.