

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

**CHAPTER 320**  
**HOUSE BILL 2571**

AN ACT

AMENDING SECTION 8-807, ARIZONA REVISED STATUTES; RELATING TO THE 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 8-807, Arizona Revised Statutes, is amended to  
3 read:

4 8-807. DCS information; public record; use; confidentiality;  
5 violation; classification; definitions

6 A. DCS information shall be maintained by the department as required  
7 by federal law as a condition of the allocation of federal monies to this  
8 state. All exceptions for the public release of DCS information shall be  
9 construed as openly as possible under federal law.

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

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

22 2. To enforce or prosecute any violation involving child abuse or  
23 neglect.

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

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

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

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

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

39 F. The department:

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

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

46 (a) The department shall provide preliminary information including at  
47 a minimum:

1 (i) The name, age and city, town or general location of residence of  
2 the child who has suffered a near fatality or fatality.  
3 (ii) The fact that a child suffered a near fatality or fatality as the  
4 result of abuse, abandonment or neglect.  
5 (iii) The name, age and city, town or general location of residence of  
6 the alleged perpetrator, if available.  
7 (iv) Whether there have been reports, or any current or past cases, of  
8 abuse, abandonment or neglect involving the child and the current alleged  
9 abusive or neglectful parent, guardian or custodian.  
10 (v) Actions taken by the department in response to the fatality or  
11 near fatality of the child.  
12 (vi) A detailed synopsis of prior reports or cases of abuse,  
13 abandonment or neglect involving the child and the current alleged abusive or  
14 neglectful parent, guardian or custodian and of the actions taken or  
15 determinations made by the department in response to these reports or cases.  
16 (b) On request by any person, the department shall promptly provide  
17 additional DCS information to the requestor. Before releasing additional DCS  
18 information, the department shall promptly notify the county attorney of any  
19 decision to release that information, and the county attorney shall promptly  
20 inform the department if it believes the release would cause a specific,  
21 material harm to a criminal investigation. After consulting with the county  
22 attorney, pursuant to subdivision (c) of this paragraph, the department shall  
23 produce to the requestor as much additional DCS information as promptly as  
24 possible about a case of child abuse, abandonment or neglect that resulted in  
25 a fatality or near fatality.  
26 (c) On request, the department shall continue to provide DCS  
27 information promptly to the public about a fatality or near fatality unless:  
28 (i) After consultation with the county attorney, the county attorney  
29 demonstrates that release of particular DCS information would cause a  
30 specific, material harm to a criminal investigation.  
31 (ii) The release would violate subsection A or L of this section or  
32 the privacy of victims of crime pursuant to article II, section 2.1,  
33 subsection C, Constitution of Arizona.  
34 (d) If any person believes that the county attorney has failed to  
35 demonstrate that release would cause a specific, material harm to a criminal  
36 investigation, that person may file an action in superior court pursuant to  
37 title 39, chapter 1, article 2 and subsection J of this section and request  
38 the court to review the DCS information in camera and order disclosure.  
39 3. May provide DCS information to a person who is conducting bona fide  
40 research, the results of which might provide DCS information that is  
41 beneficial in improving the department.  
42 4. May provide access to DCS information to the parent, guardian or  
43 custodian of a child if the DCS information is reasonably necessary to  
44 promote the safety, permanency and well-being of the child.  
45 G. The department shall disclose DCS information to a county medical  
46 examiner or an alternate medical examiner directing an investigation into the  
47 circumstances surrounding a death pursuant to section 11-593.

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

3 I. To provide oversight of the department, the department shall  
4 provide access to DCS information to the following persons, if the DCS  
5 information is reasonably necessary for the person to perform the person's  
6 official duties:

7 1. Federal or state auditors.

8 2. Persons conducting any accreditation deemed necessary by the  
9 department.

10 3. A standing committee of the legislature or a committee appointed by  
11 the president of the senate or the speaker of the house of representatives  
12 for purposes of conducting investigations related to the legislative  
13 oversight of the department. This information shall not be further disclosed  
14 unless a court has ordered the disclosure of this information, the  
15 information has been disclosed in a public or court record, or the  
16 information has been disclosed in the course of a public meeting or court  
17 proceeding.

18 4. A legislator who requests DCS information in the regular course of  
19 the legislator's duties. **A LEGISLATOR MAY DISCUSS THIS INFORMATION WITH  
20 ANOTHER LEGISLATOR IF THE OTHER LEGISLATOR HAS SIGNED THE FORM PRESCRIBED IN  
21 SUBDIVISION (d) OF THIS PARAGRAPH IN REGARD TO THE SPECIFIC FILE THAT WILL BE  
22 DISCUSSED.** This information shall not be further disclosed unless a court  
23 has ordered the disclosure of this information, the information has been  
24 disclosed in a public or court record, or the information has been disclosed  
25 in the course of a public meeting or court proceeding. To request a file  
26 pursuant to this paragraph:

27 (a) The legislator shall submit a written request for DCS information  
28 to the presiding officer of the body of which the state legislator is a  
29 member. The request shall state the name of the person whose case file is to  
30 be reviewed and any other information that will assist the department in  
31 locating the file.

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

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

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

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

44 J. A person who has been denied DCS information regarding a fatality  
45 or near fatality caused by abuse, abandonment or neglect pursuant to  
46 subsection F, paragraph 2 or subsection L of this section may bring a special  
47 action pursuant to section 39-121.02 in the superior court to order the

1 department to release that DCS information. A legislator has standing to  
2 bring or to join a special action regarding the release of DCS information or  
3 to challenge the redaction of released DCS information. The plaintiff shall  
4 provide notice to the county attorney, who has standing and may participate  
5 in the action. The court shall review the requested records in camera and  
6 order disclosure consistent with subsection A, subsection F, paragraph 2 and  
7 subsection L of this section. The court shall take reasonable steps to  
8 prevent any clearly unwarranted invasions of privacy and protect the privacy  
9 and dignity of victims of crime pursuant to article II, section 2.1,  
10 subsection C, Constitution of Arizona.

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

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

39 M. A person who is the subject of an unfounded report or complaint  
40 made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this  
41 chapter and who believes that the report or complaint was made in bad faith  
42 or with malicious intent may petition a judge of the superior court to order  
43 the department to release the DCS information. The petition shall  
44 specifically set forth reasons supporting the person's belief that the report  
45 or complaint was made in bad faith or with malicious intent. The court shall  
46 review the DCS information in camera and the person filing the petition shall  
47 be allowed to present evidence in support of the petition. If the court

1 determines that there is a reasonable question of fact as to whether the  
2 report or complaint was made in bad faith or with malicious intent and that  
3 disclosure of the identity of the person making the report or complaint would  
4 not be likely to endanger the life or safety of the person making the report  
5 or complaint, it shall provide a copy of the DCS information to the person  
6 filing the petition and the original DCS information is subject to discovery  
7 in a subsequent civil action regarding the making of the report or complaint.

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

12 O. The department shall provide DCS information on request to a  
13 prospective adoptive parent, foster parent or guardian, if the information  
14 concerns a child the prospective adoptive parent, foster parent or guardian  
15 seeks to adopt or provide care for.

16 P. If the department receives information that is confidential by law,  
17 the department shall maintain the confidentiality of the information as  
18 prescribed in the applicable law.

19 Q. A person may authorize the release of DCS information about the  
20 person but may not waive the confidentiality of DCS information concerning  
21 any other person.

22 R. The department may provide a summary of the outcome of a department  
23 investigation to the person who reported the suspected child abuse or  
24 neglect.

25 S. The department shall adopt rules to facilitate the accessibility of  
26 DCS information.

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

29 U. A person who violates this section is guilty of a class 2  
30 misdemeanor.

31 V. For the purposes of this section:

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

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

APPROVED BY THE GOVERNOR APRIL 10, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2015.