

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SENATE BILL 1003

AN ACT

AMENDING SECTIONS 8-456, 8-501, 8-821, AND 8-823, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 7, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1292; RELATING TO THE DEPARTMENT OF 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 8-456, Arizona Revised Statutes, is amended to
3 read:

4 8-456. Investigative function; training; voice stress
5 analysis; recordings; criminal offenses; definition

6 A. The department shall train all investigators in forensic
7 interviewing and processes and the protocols established pursuant to
8 section 8-817. The training must include:

9 1. Uniform safety and risk assessment tools to determine whether
10 the conduct constitutes abuse or neglect and the severity of the abuse or
11 neglect.

12 2. The duty to protect the legal and due process rights of children
13 and families from the time of the initial contact through case closure.

14 3. Instruction on a child's rights as a crime victim and
15 instruction on the legal rights of parents.

16 4. A checklist or other mechanism to assist the investigator in
17 giving consideration to the relevant factors in each investigation.

18 B. The office of child welfare investigations shall investigate DCS
19 reports that contain a criminal conduct allegation as provided in sections
20 8-471 and 8-817.

21 C. After receiving a DCS report from the centralized intake hotline
22 pursuant to section 8-455, an investigator shall do all of the following:

23 1. Make a prompt and thorough investigation. An investigation must
24 evaluate and determine the nature, extent and cause of any condition
25 created by the parents, guardian or custodian or an adult member of the
26 victim's household that would tend to support or refute the allegation
27 that the child is a victim of abuse or neglect and determine the name, age
28 and condition of other children in the home. If an investigator has
29 sufficient information to determine that the child is not a victim of
30 abuse or neglect, the investigator may close the investigation.

31 2. If required by section 8-821 and subject to section 8-471, take
32 a child into temporary custody. Law enforcement officers shall cooperate
33 with the department to remove a child from the custody of the child's
34 parents, guardian or custodian when necessary.

35 D. THE DEPARTMENT MAY NOT USE COVERT VOICE STRESS ANALYSIS DURING
36 AN INVESTIGATION TO DETERMINE IF ABUSE OR NEGLECT EXISTS. THE DEPARTMENT
37 MAY NOT USE OVERT VOICE STRESS ANALYSIS DURING AN INVESTIGATION UNLESS THE
38 PERSON ON WHOM THE ANALYSIS IS USED GIVES INFORMED CONSENT. RESULTS OF
39 COMPUTER VOICE STRESS ANALYSIS ARE NOT ADMISSIBLE IN COURT.

40 ~~D.~~ E. After an investigation, an investigator shall:

41 1. Determine whether any child is in need of child safety services
42 consistent with the evaluation and determination made pursuant to
43 subsection C of this section.

1 2. If appropriate pursuant to section 8-846, offer to the family of
2 any child who is found to be a child in need of child safety services
3 those services that are designed to correct unresolved problems that would
4 indicate a reason to adjudicate the child dependent.

5 3. Submit a written report of the investigator's investigation to:

6 (a) The department's case management information system within a
7 reasonable amount of time that does not exceed forty-five days after
8 receipt of the DCS report except as provided in section 8-811. If the
9 investigation involves allegations regarding a child who at the time of
10 the alleged incident was in the custody of a child welfare agency licensed
11 by the department under this title, a copy of the report and any
12 additional investigative or other related reports must be provided to the
13 board of directors of the agency or to the administrative head of the
14 agency unless the incident is alleged to have been committed by the
15 person. The department shall excise all information with regard to the
16 identity of the source of the reports.

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

22 4. Accept a child into voluntary placement pursuant to section
23 8-806.

24 5. Identify, promptly obtain and abide by court orders that
25 restrict or deny custody, visitation or contact by a parent or other
26 person in the home with the child and notify appropriate personnel in the
27 department to preclude violations of a court order in the provision of any
28 services.

29 ~~F.~~ F. In conducting an investigation pursuant to this section, if
30 the investigator is made aware that an allegation of abuse or neglect may
31 also have been made in another state, the investigator shall contact the
32 appropriate agency in that state to attempt to determine the outcome of
33 any investigation of that allegation.

34 ~~F.~~ G. If an investigation indicates a reason to believe that a
35 criminal offense has been committed, the investigator shall immediately
36 provide the information to the appropriate law enforcement agency and the
37 office of child welfare investigations, unless the information was
38 previously provided pursuant to section 8-455.

39 H. EXCEPT IN JUDICIAL PROCEEDINGS, A PARENT OR LEGAL GUARDIAN MAY
40 NOT BE PROHIBITED FROM RECORDING CONVERSATIONS WITH THE DEPARTMENT
41 PURSUANT TO THIS SECTION.

42 ~~I.~~ I. For the purposes of this section, "investigator" means an
43 employee of the department who investigates allegations of abuse or
44 neglect pursuant to a DCS report.

1 Sec. 2. Section 8-501, Arizona Revised Statutes, is amended to
2 read:

3 8-501. Definitions

4 A. In this article, unless the context otherwise requires:

5 1. "Child developmental certified home" means a regular foster home
6 that is licensed pursuant to section 8-509 and that is certified by the
7 department of economic security pursuant to section 36-593.01.

8 2. "Child welfare agency" or "agency":

9 (a) Means:

10 (i) Any agency or institution that is maintained by a person, firm,
11 corporation, association or organization to receive children for care and
12 maintenance or for twenty-four hour social, emotional or educational
13 supervised care or who have been adjudicated as a delinquent or dependent
14 child.

15 (ii) Any institution that provides care for unmarried mothers and
16 their children.

17 (iii) Any agency that is maintained by this state, a political
18 subdivision of this state or a person, firm, corporation, association or
19 organization to place children or unmarried mothers in a foster home.

20 (b) Does not include state operated institutions or facilities,
21 detention facilities for children established by law, health care
22 institutions that are licensed by the department of health services
23 pursuant to title 36, chapter 4 or private agencies that exclusively
24 provide children with social enrichment or recreational opportunities and
25 that do not use restrictive behavior management techniques.

26 3. "Division" or "department" means the department of child safety.

27 4. "Former dependent child" means a person who was previously
28 adjudicated a dependent child in a dependency proceeding that has been
29 dismissed by order of the juvenile court.

30 5. "Foster child" means a child placed in a foster home or child
31 welfare agency.

32 6. "Foster home" means a home that is maintained by any individual
33 or individuals having the care or control of minor children, other than
34 those related to each other by blood or marriage, or related to such
35 individuals, or who are legal wards of such individuals.

36 7. "Foster parent" means any individual or individuals maintaining
37 a foster home.

38 8. "Group foster home" means a licensed regular or special foster
39 home that is suitable for placement of more than five minor children but
40 not more than ten minor children.

41 9. "Out-of-home placement" means the placing of a child in the
42 custody of an individual or agency other than with the child's parent or
43 legal guardian and includes placement in temporary custody pursuant to
44 section 8-821, ~~subsection A or B~~, voluntary placement pursuant to section
45 8-806 or placement due to dependency actions.

1 10. "Parent" means the natural or adoptive mother or father of a
2 child.

3 11. "Reason for leaving care" means one of the following:

4 (a) Reunification with a parent or primary caretaker.

5 (b) Living with another relative.

6 (c) Adoption by a relative.

7 (d) Adoption by a foster parent.

8 (e) Adoption by another person.

9 (f) Age of majority.

10 (g) Guardianship by a relative.

11 (h) Guardianship by another person.

12 (i) Transfer to another agency.

13 (j) Runaway.

14 (k) Death.

15 12. "Receiving foster home" means a licensed foster home that is
16 suitable for immediate placement of children when taken into custody or
17 pending medical examination and court disposition.

18 13. "Regular foster home" means a licensed foster home that is
19 suitable for placement of not more than five minor children.

20 14. "Relative" means a grandparent, great-grandparent, brother or
21 sister of whole or half blood, aunt, uncle or first cousin.

22 15. "Restrictive behavior management" means an intervention or
23 procedure that attempts to guide, redirect, modify or manage behavior
24 through the use of any of the following:

25 (a) Physical force to cause a child to comply with a directive.
26 Physical force does not include physical escort. For the purposes of this
27 subdivision, "physical escort" means temporarily touching or holding a
28 child's hand, wrist, arm, shoulder or back to induce the child to walk to
29 a safe location.

30 (b) A device, action or medication to restrict the movement or
31 normal function of a child in order to control or change the child's
32 behavior and that includes:

33 (i) Chemical restraint. For the purposes of this item, "chemical
34 restraint" means the use of any psychoactive medication as a restraint to
35 control the child's behavior or to restrict the child's freedom of
36 movement and that is not a standard treatment for the child's medical or
37 psychiatric condition.

38 (ii) Mechanical restraint. For the purposes of this item,
39 "mechanical restraint" means the use of any physical device to limit a
40 child's movement and to prevent the child from causing harm to self or to
41 others. Mechanical restraint does not include devices such as
42 orthopedically prescribed devices, surgical dressings or bandages,
43 protective helmets or any other method that involves the physical holding
44 of a child to conduct a routine physical examination or test or to protect

1 the child from falling out of bed or to permit the child to participate in
2 activities in order to reduce the risk of physical harm to the child.

3 (iii) Physical restraint. For the purposes of this item, "physical
4 restraint" means applying physical force to reduce or restrict a child's
5 ability to freely move the child's arms, legs or head. Physical restraint
6 does not include temporarily holding a child to permit the child to
7 participate in activities of daily living if this holding does not involve
8 the risk of physical harm to the child.

9 (iv) Seclusion. For the purposes of this item, "seclusion" means
10 placing a child against the child's will in a room in which the child is
11 unable to open the door in order to prevent the child from doing harm to
12 self or others.

13 16. "Special foster home" means a licensed foster home that is
14 capable of handling not more than five minor children who require special
15 care for physical, mental or emotional reasons or who have been
16 adjudicated delinquent. Special foster home includes any home handling
17 foster children aged twelve through seventeen.

18 B. A foster home or any classification of foster home defined in
19 subsection A of this section includes a home having the care of persons
20 who are under twenty-one years of age and the cost of whose care is
21 provided pursuant to section 8-521.01.

22 Sec. 3. Section 8-821, Arizona Revised Statutes, is amended to
23 read:

24 8-821. Taking into temporary custody; medical examination;
25 placement; interference; violation; classification

26 A. A child shall be taken into temporary custody ~~in proceedings to~~
27 ~~declare a child a temporary ward of the court to protect the child, ONLY~~
28 pursuant to ONE OF THE FOLLOWING:

- 29 1. An order of the ~~juvenile~~ SUPERIOR COURT.
- 30 2. SUBSECTION D OF THIS SECTION.
- 31 3. THE CONSENT OF THE CHILD'S PARENT OR GUARDIAN.

32 B. THE SUPERIOR court, on a DEPENDENCY petition by an interested
33 person, a peace officer, A CHILD WELFARE INVESTIGATOR or a child safety
34 worker under oath OR ON A SWORN STATEMENT OR TESTIMONY BY A PEACE OFFICER,
35 A CHILD WELFARE INVESTIGATOR OR A CHILD SAFETY WORKER, MAY ISSUE AN ORDER
36 AUTHORIZING THE DEPARTMENT TO TAKE TEMPORARY CUSTODY OF A CHILD ON FINDING
37 that reasonable grounds exist to believe that temporary custody is clearly
38 necessary to protect the child from suffering abuse or neglect AND IT IS
39 CONTRARY TO THE CHILD'S WELFARE TO REMAIN IN THE HOME.

40 C. If a child is taken into temporary custody pursuant to this
41 section, the child's sibling shall also be taken into temporary custody
42 only if reasonable grounds independently exist to believe that temporary
43 custody is clearly necessary to protect the child from suffering abuse or
44 neglect.

1 ~~B.~~ D. A child may be taken into temporary custody **WITHOUT A COURT**
2 **ORDER** by a peace officer, a child welfare investigator or a child safety
3 worker if temporary custody is clearly necessary to protect the child
4 because probable cause exists to believe that the child is either:

5 1. A victim or will imminently become a victim of abuse or neglect
6 **IN THE TIME IT WOULD TAKE TO OBTAIN A COURT ORDER.**

7 2. Suffering serious physical or emotional injury that can only be
8 diagnosed by a medical doctor or psychologist.

9 3. Physically injured as a result of living on premises where
10 dangerous drugs or narcotic drugs are being manufactured. For the
11 purposes of this paragraph, "dangerous drugs" and "narcotic drugs" have
12 the same meanings prescribed in section 13-3401.

13 4. Reported by the department to be a missing child at risk of
14 serious harm.

15 ~~C.~~ E. In determining if a child should be taken into temporary
16 custody, the ~~interested person~~ **COURT**, peace officer, child welfare
17 investigator or child safety worker shall take into consideration:

18 1. As a paramount concern the child's health and safety.

19 2. Whether the parent is willing to participate in any services
20 that are offered to the parent.

21 ~~D.~~ F. A person who takes a child into custody pursuant to
22 subsection ~~B.~~ D, paragraph 2 of this section shall immediately have the
23 child examined by a medical doctor or psychologist. After the examination
24 the person shall release the child to the custody of the parent or
25 guardian of the child unless the examination reveals abuse or
26 neglect. Temporary custody of a child taken into custody pursuant to
27 subsection ~~B.~~ D, paragraph 2 of this section shall not exceed twelve
28 hours.

29 ~~E.~~ G. A child who is taken into temporary custody pursuant to this
30 article shall not be detained in a police station, jail or lockup where
31 adults charged with or convicted of a crime are detained.

32 ~~F.~~ H. A child shall not remain in temporary custody for more than
33 seventy-two hours excluding Saturdays, Sundays and holidays unless a
34 dependency petition is filed.

35 ~~G.~~ I. A person who knowingly interferes with the taking of a child
36 into temporary custody under this section is guilty of a class 2
37 misdemeanor.

38 Sec. 4. Section 8-823, Arizona Revised Statutes, is amended to
39 read:

40 8-823. Notice of taking into temporary custody

41 A. If a child is taken into temporary custody pursuant to this
42 article, the interested person, peace officer or child safety worker
43 taking the child into custody shall provide written notice within six
44 hours to the parent or guardian of the child, unless:

1 1. The parent or guardian is present when the child is taken into
2 custody, then written and verbal notice shall be provided immediately.

3 2. The residence of the parent or guardian is outside this state
4 and notice cannot be provided within six hours, then written notice shall
5 be provided within twenty-four hours.

6 3. The residence of the parent or guardian is not ascertainable,
7 then reasonable efforts shall be made to locate and notify the parent or
8 guardian of the child as soon as possible.

9 B. The written notice shall contain a signature line for the parent
10 or guardian to acknowledge receipt of both written and verbal notices.
11 The written and verbal notices shall contain the name of the person and
12 agency taking the child into custody, the location from which the child
13 was taken and all of the following information:

14 1. Specific reasons as to why the child is being removed. The
15 notice shall list the specific factors that caused the determination of
16 imminent danger.

17 2. Services that are available to the parent or guardian, including
18 a statement of parental rights and information on how to contact the
19 ombudsman-citizens aide's office and an explanation of the services that
20 office offers.

21 3. The date and time of the taking into custody.

22 4. The name and telephone number of the agency responsible for the
23 child.

24 5. A statement of the reasons for temporary custody of the child.

25 6. A statement that the child must be returned within seventy-two
26 hours excluding Saturdays, Sundays and holidays unless a dependency
27 petition is filed and a statement that a child in temporary custody for
28 examination pursuant to section 8-821, subsection ~~B~~ D, paragraph 2 must
29 be returned within twelve hours unless abuse or neglect is diagnosed.

30 7. One of the following:

31 (a) If a dependency petition has not been filed or if the
32 information prescribed in subdivision (b) is not available, a statement
33 that if a dependency petition is filed, the parent or guardian will be
34 provided a written notice no later than twenty-four hours after the
35 petition is filed that contains the information prescribed in subdivision
36 (b).

37 (b) In all other cases, the date, time and place of the preliminary
38 protective hearing to be held pursuant to section 8-824 and the
39 requirements of subsection D of this section.

40 8. A statement of the right of the parent or guardian to counsel
41 and that counsel will be appointed pursuant to section 8-221 through the
42 juvenile court if a dependency petition is filed and the person is
43 indigent.

1 9. Information regarding the ability of the person about whom the
2 report was made to provide a verbal, telephonic or written response to the
3 allegations. A verbal response shall be included in the written report of
4 the investigation. A written response, including any documentation, shall
5 be included in the case file.

6 10. A statement that the hearing may result in further proceedings
7 to terminate parental rights.

8 11. A statement that the parent or guardian must immediately provide
9 to the department the names, the type of relationship and all available
10 information necessary to locate persons who are related to the child or
11 who have a significant relationship with the child. If there is not
12 sufficient information available to locate a relative or person with a
13 significant relationship with the child, the parent shall inform the
14 department of this fact. If the parent or guardian obtains information
15 regarding the existence or location of a relative or person with a
16 significant relationship with the child, the parent or guardian shall
17 immediately provide that information to the department.

18 12. A statement that the parent or guardian must be prepared to
19 provide to the court at the preliminary protective hearing the names, the
20 type of relationship and all available information necessary to locate
21 persons who are related to the child or who have a significant
22 relationship with the child.

23 C. The child safety worker shall provide the parent or guardian
24 with the notice even if the parent or guardian refuses to sign the
25 acknowledgment.

26 D. Immediately before the time of the preliminary protective
27 hearing, the persons described in section 8-824, subsection B shall meet
28 and attempt to reach an agreement about placement of the child, services
29 to be provided to the child, parent or guardian and visitation of the
30 child. The parties shall meet with their counsel, if any, before this
31 meeting. Consideration shall be given to the availability of reasonable
32 services to the parent or guardian and the child's health and safety shall
33 be a paramount concern. The persons described in section 8-824,
34 subsection C may attend the meeting to reach an agreement.

35 E. If a dependency petition is filed by the department, the child
36 safety worker is responsible for delivering the notice of the preliminary
37 protective hearing prescribed in subsection B, paragraph 7 of this section
38 to the parent or guardian. In all other cases, the person who files the
39 dependency petition is responsible for delivery of this notice to the
40 parent or guardian. If the location of the parent or guardian is unknown,
41 the person who is responsible for serving this notice shall make
42 reasonable efforts to locate and notify the parent or guardian.

1 Sec. 5. Title 41, chapter 7, article 12, Arizona Revised Statutes,
2 is amended by adding section 41-1292, to read:

3 ~~41-1292.~~ Joint legislative oversight committee on the
4 department of child safety; committee termination

5 A. THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON THE DEPARTMENT OF
6 CHILD SAFETY IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

7 1. THE CHAIRPERSON OF THE SENATE COMMITTEE THAT ADDRESSES CHILD
8 SAFETY ISSUES.

9 2. THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES COMMITTEE THAT
10 ADDRESSES CHILD SAFETY ISSUES.

11 3. TWO MEMBERS OF THE SENATE WHO ARE APPOINTED BY THE PRESIDENT OF
12 THE SENATE AND WHO ARE MEMBERS OF DIFFERENT POLITICAL PARTIES.

13 4. TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES WHO ARE APPOINTED BY
14 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND WHO ARE MEMBERS OF
15 DIFFERENT POLITICAL PARTIES.

16 B. THE CHAIRPERSON OF THE SENATE COMMITTEE THAT ADDRESSES CHILD
17 SAFETY ISSUES AND THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES
18 COMMITTEE THAT ADDRESSES CHILD SAFETY ISSUES SHALL SERVE AS
19 COCHAIRPERSONS.

20 C. THE COMMITTEE SHALL MEET AT LEAST BIANNUALLY, AND A MAJORITY OF
21 THE MEMBERS CONSTITUTES A QUORUM FOR THE TRANSACTION OF BUSINESS.

22 D. THE COMMITTEE SHALL REVIEW:

23 1. THE DEPARTMENT'S IMPLEMENTATION OF POLICY AND PROCEDURES AND
24 PROGRAM EFFECTIVENESS.

25 2. ALL REPORTS ON PROGRAM OUTCOMES RELEASED BY THE DEPARTMENT TO
26 THE LEGISLATURE FOR TRENDS AND AREAS FOR STATUTORY IMPROVEMENT AND AUDITS
27 ISSUED BY THE OFFICE OF THE AUDITOR GENERAL RELATED TO THE DEPARTMENT.

28 3. POLICIES AND PROCEDURES RELATING TO GUARDIANSHIPS AND DEPENDENCY
29 PROCEEDINGS.

30 4. THE COMMITTEE ESTABLISHED BY THIS SECTION ENDS ON JULY 1, 2025
31 PURSUANT TO SECTION 41-3103.

32 Sec. 6. Department of child safety; review of reporting
33 requirements

34 On or before December 31, 2017, the department of child safety shall
35 do all of the following:

36 1. Post the proposed consolidated report generated from the
37 recommendations required by Laws 2014, second special session, chapter 1,
38 section 160 on the department's website.

39 2. Hold meetings with stakeholders to discuss potential reports on
40 longer metric outcome data in addition to any other reports prescribed by
41 law.

42 3. Identify metrics, if any, that stakeholders want but that have
43 been omitted from the reports prepared by the department.

44 4. Submit a report to the joint legislative budget committee and
45 the joint legislative oversight committee on the department of child

1 safety established by section 41-1292, Arizona Revised Statutes, as added
2 by this act, on all of the following:

3 (a) The implementation of the new reporting structure.

4 (b) The outcome of stakeholder meetings.

5 (c) The identification of new metrics.

6 Sec. 7. Implementation of act; report

7 On or before January 1, 2018, the department of child safety shall
8 do both of the following:

9 1. Consult with the administrative office of the courts to develop
10 systems and procedures to implement section 8-821, Arizona Revised
11 Statutes, as amended by this act.

12 2. Submit a report to the joint legislative budget committee and
13 the joint legislative oversight committee on the department of child
14 safety established by section 41-1292, Arizona Revised Statutes, as added
15 by this act, that includes:

16 (a) An overview of how the department will implement the
17 requirement to obtain a court order to remove a child as prescribed in
18 section 8-821, Arizona Revised Statutes, as amended by this act.

19 (b) The technological and staffing needs of the department of child
20 safety and the judicial system to implement the requirements of section
21 8-821, Arizona Revised Statutes, as amended by this act.

22 Sec. 8. Effective date

23 Sections 8-456, 8-501, 8-821 and 8-823, Arizona Revised Statutes, as
24 amended by this act, are effective from and after June 30, 2018.