

House Engrossed

DCS; federal benefits; dependent children.

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2559

AN ACT

AMENDING SECTION 8-453, ARIZONA REVISED STATUTES; AMENDING TITLE 8,
CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-468;
RELATING TO CHILD WELFARE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-453, Arizona Revised Statutes, is amended to
3 read:

4 8-453. Powers and duties

5 A. The director shall:

6 1. Carry out the purposes of the department prescribed in section
7 8-451.

8 2. Provide transparency by being open and accountable to the public
9 for the actions of the department.

10 3. Develop a data system that enables persons and entities that are
11 charged with a responsibility relating to child safety to access all
12 relevant information relating to an abused, neglected or abandoned child
13 as provided by law.

14 4. Subject to title 41, chapter 4, article 4 and, as applicable,
15 articles 5 and 6, employ deputy directors and other key personnel based on
16 qualifications that are prescribed by the director.

17 5. Adopt rules to implement the purposes of the department and the
18 duties and powers of the director.

19 6. Petition, as necessary to implement the case plan established
20 under section 8-824 or 8-845, for the appointment of a guardian or a
21 temporary guardian under title 14, chapter 5 for children who are in **THE**
22 custody of the department pursuant to court order. Persons applying to be
23 guardians or temporary guardians under this section shall be
24 fingerprinted. A foster parent or certified adoptive parent already
25 fingerprinted is not required to be fingerprinted again, if the foster
26 parent or certified adoptive parent is the person applying to be the
27 guardian or temporary guardian.

28 7. Cooperate with other agencies of this state, county and
29 municipal agencies, faith-based organizations and community social
30 services agencies, if available, to achieve the purposes of this chapter.

31 8. Exchange information, including case specific information, and
32 cooperate with the department of economic security for the administration
33 of the department of economic security's programs.

34 9. Administer child welfare activities, including:

35 (a) Cross-jurisdictional placements pursuant to section 8-548.

36 (b) Providing the cost of care of:

37 (i) Children who are in temporary custody, are the subject of a
38 dependency petition or are adjudicated by the court as dependent and who
39 are in out-of-home placement, except state institutions.

40 (ii) Children who are voluntarily placed in out-of-home placement
41 pursuant to section 8-806.

42 (iii) Children who are the subject of a dependency petition or are
43 adjudicated dependent and who are in the custody of the department and
44 ordered by the court pursuant to section 8-845 to reside in an independent
45 living program pursuant to section 8-521.

- 1 (c) Providing services for children placed in adoption.
2 10. Formulate policies, plans and programs to effectuate the
3 missions and purposes of the department.
4 11. Make contracts and incur obligations within the general scope
5 of the department's activities and operations subject to the availability
6 of funds.
7 12. Coordinate with, contract with or assist other departments,
8 agencies and institutions of this state and local and federal governments
9 in the furtherance of the department's purposes, objectives and programs.
10 13. Accept and disburse grants, matching funds and direct payments
11 from public or private agencies for the conduct of programs that are
12 consistent with the overall purposes and objectives of the department.
13 14. Collect monies owed to the department.
14 15. Act as an agent of the federal government in furtherance of any
15 functions of the department.
16 16. Carry on research and compile statistics relating to the child
17 welfare program throughout this state, including all phases of dependency.
18 17. Cooperate with the superior court in all matters related to
19 this title and title 13.
20 18. Provide the cost of care and transitional independent living
21 services for a person under twenty-one years of age pursuant to section
22 8-521.01.
23 19. Ensure that all criminal conduct allegations and reports of
24 imminent risk of harm are investigated.
25 20. Ensure the department's compliance with the Indian child
26 welfare act of 1978 (P.L. 95-608; 92 Stat. 3069; 25 United States Code
27 sections 1901 through 1963).
28 21. Strengthen relationships with tribal child protection agencies
29 or programs.
30 B. The director may:
31 1. Take administrative action to improve the efficiency of the
32 department.
33 2. Contract with a private entity to provide any functions or
34 services pursuant to this title.
35 3. Apply for, accept, receive and expend public and private gifts
36 or grants of money or property on the terms and conditions as may be
37 imposed by the donor and for any purpose provided for by this title.
38 4. Reimburse department volunteers, designated by the director, for
39 expenses in transporting clients of the department on official business.
40 Volunteers reimbursed for expenses are not eligible for workers'
41 compensation under title 23, chapter 6.
42 C. The department shall administer individual and family services,
43 including sections on services to children and youth and other related
44 functions in furtherance of social service programs under the social
45 security act, as amended, title IV, parts B and E, grants to states for

1 aid and services to needy families with children and for child-welfare
2 services, title XX, grants to states for services and other related
3 federal acts and titles.

4 ~~D. If the department has responsibility for the care, custody or~~
5 ~~control of a child or is paying the cost of care for a child, the~~
6 ~~department may serve as representative payee to receive and administer~~
7 ~~social security and veterans administration benefits and other benefits~~
8 ~~payable to the child. Notwithstanding any law to the contrary, the~~
9 ~~department:~~

10 ~~1. Shall deposit, pursuant to sections 35-146 and 35-147, any~~
11 ~~monies it receives to be retained separate and apart from the state~~
12 ~~general fund on the books of the department of administration.~~

13 ~~2. May use these monies to defray the cost of care and services~~
14 ~~expended by the department for the benefit, welfare and best interests of~~
15 ~~the child and invest any of the monies that the director determines are~~
16 ~~not necessary for immediate use.~~

17 ~~3. Shall maintain separate records to account for the receipt,~~
18 ~~investment and disposition of monies received for each child.~~

19 ~~4. On termination of the department's responsibility for the child,~~
20 ~~shall release any monies remaining to the child's credit pursuant to the~~
21 ~~requirements of the funding source or, in the absence of any requirements,~~
22 ~~shall release the remaining monies to:~~

23 ~~(a) The child, if the child is at least eighteen years of age or is~~
24 ~~emancipated.~~

25 ~~(b) The person who is responsible for the child if the child is a~~
26 ~~minor and not emancipated.~~

27 ~~E. Subsection D of this section does not apply to benefits that are~~
28 ~~payable to or for the benefit of a child receiving services under title~~
29 ~~36.~~

30 ~~F. D.~~ Notwithstanding any other law, a state or local governmental
31 agency or a private entity is not subject to civil liability for the
32 disclosure of information that is made in good faith to the department
33 pursuant to this section.

34 ~~G. E.~~ Notwithstanding section 41-192, the department may employ
35 legal counsel to provide legal advice to the director. The attorney
36 general shall represent the department in any administrative or judicial
37 proceeding pursuant to title 41, chapter 1, article 5.

38 ~~H. F.~~ The total amount of state monies that may be spent in any
39 fiscal year by the department for foster care as provided in subsection A,
40 paragraph 9, subdivision (b) of this section may not exceed the amount
41 appropriated or authorized by section 35-173 for that purpose. This
42 section does not impose a duty on an officer, agent or employee of this
43 state to discharge a responsibility or ~~to~~ create any right in a person or
44 group if the discharge or right would require an expenditure of state

1 monies in excess of the expenditure authorized by legislative
2 appropriation for that specific purpose.

3 Sec. 2. Title 8, chapter 4, article 1, Arizona Revised Statutes, is
4 amended by adding section 8-468, to read:

5 8-468. Federal benefits; dependent children; application;
6 prohibition; accounting; notice; annual review

7 A. FOR ALL CHILDREN IN THE CARE OF THE DEPARTMENT OF CHILD SAFETY,
8 THE DEPARTMENT OF CHILD SAFETY SHALL DETERMINE WHETHER EACH CHILD IS
9 RECEIVING OR ELIGIBLE FOR BENEFITS ADMINISTERED BY THE SOCIAL SECURITY
10 ADMINISTRATION OR THE VETERANS ADMINISTRATION WITHIN SIXTY DAYS AFTER THE
11 CHILD ENTERS THE DEPARTMENT'S CARE. IF THE DEPARTMENT OF CHILD SAFETY
12 DETERMINES THAT A CHILD IS ELIGIBLE OR MAY BE ELIGIBLE FOR FEDERAL
13 BENEFITS, THE DEPARTMENT OF CHILD SAFETY SHALL APPLY FOR THE BENEFITS ON
14 BEHALF OF THE CHILD.

15 B. IF A CHILD IS ALREADY RECEIVING BENEFITS BEFORE ENTERING THE
16 DEPARTMENT'S CARE OR IF THE DEPARTMENT APPLIES FOR BENEFITS ON BEHALF OF
17 THE CHILD, THE DEPARTMENT SHALL IDENTIFY, IN CONSULTATION WITH THE CHILD
18 AND THE CHILD'S ATTORNEY, A REPRESENTATIVE PAYEE IN ACCORDANCE WITH 20
19 CODE OF FEDERAL REGULATIONS SECTIONS 404.2021 AND 416.621 AND SHALL APPLY
20 TO BECOME THE REPRESENTATIVE PAYEE ONLY IF NO OTHER SUITABLE CANDIDATE IS
21 AVAILABLE. IF THE DEPARTMENT OF CHILD SAFETY IS APPOINTED TO SERVE AS THE
22 REPRESENTATIVE PAYEE, THE DEPARTMENT:

23 1. MAY NOT USE THE CHILD'S FEDERAL BENEFITS, OTHER BENEFITS,
24 SAVINGS OR ASSETS TO PAY FOR OR TO REIMBURSE THE DEPARTMENT OF CHILD
25 SAFETY OR THIS STATE FOR ANY OF THE COSTS OF THE CHILD'S CARE.

26 2. MAY USE THE CHILD'S FEDERAL BENEFITS FOR THE CHILD'S UNMET NEEDS
27 BEYOND WHAT THE DEPARTMENT OF CHILD SAFETY IS OBLIGATED, REQUIRED OR
28 AGREES TO PAY.

29 3. SHALL ESTABLISH AN APPROPRIATE ACCOUNT TO USE AND CONSERVE THE
30 CHILD'S BENEFITS IN THE CHILD'S BEST INTEREST FOR CURRENT UNMET NEEDS AND
31 FUTURE NEEDS IN A MANNER CONSISTENT WITH FEDERAL AND STATE ASSET AND
32 RESOURCE LIMITS. THE ACCOUNT MAY INCLUDE ANY OF THE FOLLOWING:

33 (a) A SPECIAL NEEDS TRUST.

34 (b) A POOLED SPECIAL NEEDS TRUST.

35 (c) AN ACHIEVING A BETTER LIFE EXPERIENCE ACCOUNT ESTABLISHED
36 PURSUANT TO SECTION 529A OF THE INTERNAL REVENUE CODE.

37 (d) ANY OTHER TRUST ACCOUNT DETERMINED NOT TO INTERFERE WITH SOCIAL
38 SECURITY OR ASSET LIMITATIONS FOR ANY OTHER BENEFIT PROGRAM.

39 4. IN ADDITION TO THE REQUIREMENTS OF SECTION 14-9115, SHALL
40 PROVIDE AN ANNUAL ACCOUNTING AS TO THE USE, APPLICATION OR CONSERVATION OF
41 THE CHILD'S FEDERAL BENEFITS TO THE CHILD, THE CHILD'S ATTORNEY AND THE
42 CHILD'S PARENTS OR GUARDIANS.

43 5. SHALL PERIODICALLY REVIEW IF SOMEONE OTHER THAN THE DEPARTMENT
44 IS AVAILABLE TO APPLY TO ASSUME THE ROLE OF REPRESENTATIVE PAYEE AND COULD
45 BETTER SERVE IN THAT ROLE IN THE CHILD'S BEST INTERESTS.

1 C. THE DEPARTMENT OF CHILD SAFETY SHALL NOTIFY THE CHILD, THE
2 CHILD'S PARENTS, UNLESS PARENTAL RIGHTS HAVE BEEN TERMINATED, THE CHILD'S
3 GUARDIAN, THE CHILD'S CURRENT PLACEMENT AND THE CHILD'S ATTORNEY OF ANY
4 APPLICATION, DECISION OR APPEAL RELATED TO A CHILD'S FEDERAL BENEFITS. IN
5 PROVIDING NOTICE OF ANY DENIAL OF BENEFITS, THE DEPARTMENT SHALL CONSULT
6 WITH THE CHILD'S ATTORNEY AND APPEAL THE DENIAL IF IT IS IN THE CHILD'S
7 BEST INTERESTS.

8 D. THE DEPARTMENT SHALL ANNUALLY REVIEW CASES OF CHILDREN IN THE
9 DEPARTMENT'S CARE TO DETERMINE WHETHER A CHILD MAY HAVE BECOME ELIGIBLE
10 FOR BENEFITS AFTER THE DEPARTMENT'S INITIAL ASSESSMENT.

11 E. NOTWITHSTANDING ANY OTHER LAW, ON TERMINATION OF THE
12 DEPARTMENT'S RESPONSIBILITY FOR THE CHILD, THE DEPARTMENT SHALL RELEASE
13 ANY MONIES REMAINING TO THE CHILD'S CREDIT PURSUANT TO THE REQUIREMENTS OF
14 THE FUNDING SOURCE OR, IN THE ABSENCE OF ANY REQUIREMENTS, SHALL RELEASE
15 THE REMAINING MONIES TO:

16 1. THE CHILD, IF THE CHILD IS AT LEAST EIGHTEEN YEARS OF AGE OR IS
17 EMANCIPATED.

18 2. THE PERSON WHO IS RESPONSIBLE FOR THE CHILD IF THE CHILD IS A
19 MINOR AND NOT EMANCIPATED.