

COMMITTEE ON GOVERNMENT  
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2213  
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 8-515.03, Arizona Revised Statutes, is amended  
3 to read:

4 8-515.03. Duties of local foster care review boards

5 A. Local foster care review boards shall:

6 1. Review within six months of placement and at least once every six  
7 months thereafter the case of each child who remains in out-of-home  
8 placement and who is the subject of a dependency action to determine what  
9 efforts have been made by the department and the agency with which the  
10 child has been placed to carry out the case plan for the permanent  
11 placement of such child. The review period for out-of-home placement  
12 includes time that a child is in voluntary placement pursuant to section  
13 8-806. The court and the department shall review a local foster care  
14 review board's findings and recommendations at the next scheduled  
15 dependency review hearing and the court shall address the board's  
16 recommendations on the record. The department shall provide the local  
17 foster care review board with written notice within ten business days of  
18 the date of the receipt of the recommendation if the department intends to  
19 accept or not implement the board's recommendations.

20 2. Allow a child's parents and grandparents to attend the local  
21 foster care review board's review of the case. The parent or grandparent  
22 may be accompanied at the review by an advocate of the parent's or  
23 grandparent's choice.

1           3. Review any case assigned by the juvenile court for early review  
2 of the case plan within sixty days after the removal of a child from that  
3 child's home.

4           4. Submit to the juvenile court within thirty days following the  
5 review its findings and recommendations regarding the efforts and progress  
6 made by the department and agency to carry out the case plan, together with  
7 any other recommendations it chooses to make regarding the child. The  
8 findings and recommendations shall include the date of the next review. A  
9 copy of such findings and recommendations shall be sent to the division or  
10 the agency, if the juvenile court has awarded custody of the child to the  
11 agency, and to such other interested parties as the court may require.

12           5. Encourage and facilitate the timely return of children to their  
13 natural parents or, if the board finds that one or more of the grounds  
14 listed in section 8-533 may exist, encourage the appropriate agency to  
15 initiate such procedures as would make the child eligible for adoption,  
16 followed by a maximum effort by the agency to place the child for adoption.

17           6. Encourage the department and all agencies involved in placing  
18 children in out-of-home placement to exert all possible efforts to make  
19 arrangements for permanent plans for children for whom return to natural  
20 parents or adoption is determined to be infeasible or impossible.

21           7. Promote and encourage the department and all agencies involved in  
22 placing children in foster care to maximize stability and family continuity  
23 for children in foster care by discouraging unnecessary changes in the  
24 placement of foster children and by recruiting foster parents who may be  
25 suitable and eligible as adoptive parents.

26           8. Assist the department and agencies in informing natural parents,  
27 foster parents and other interested parties of their rights and  
28 responsibilities with respect to any child in out-of-home placement.  
29 Natural parents, foster parents and other interested parties may be  
30 involved in the review process when appropriate.

1           9. Make recommendations to the state board regarding foster care  
2 policies and procedures as they relate to the children assigned for their  
3 review.

4           B. THE DEPARTMENT SHALL PROVIDE TO THE SUPREME COURT DIRECT REMOTE  
5 ACCESS TO ALL AUTOMATED CASE MANAGEMENT SYSTEMS THAT ARE USED BY THE  
6 DEPARTMENT FOR THE SUPREME COURT TO USE IN ASSISTING A LOCAL FOSTER CARE  
7 REVIEW BOARD IN PERFORMING THE BOARD'S DUTIES. IF INFORMATION IS NOT  
8 AVAILABLE THROUGH THE DEPARTMENT'S AUTOMATED CASE MANAGEMENT SYSTEMS, THE  
9 DEPARTMENT SHALL PROVIDE THE SUPREME COURT WITH A HARD COPY OF ALL RECORDS  
10 KEPT BY THE DEPARTMENT FOR THE SUPREME COURT TO USE IN ASSISTING A LOCAL  
11 FOSTER CARE REVIEW BOARD IN PERFORMING THE BOARD'S DUTIES.

12           Sec. 2. Section 8-519, Arizona Revised Statutes, is amended to read:

13           8-519. Records and reports

14           A. Each child welfare agency shall keep records regarding the  
15 children in its care as the division prescribes and shall furnish to the  
16 division, on request, such additional information as the division requires.

17           B. The department shall provide information necessary for foster  
18 care review boards to perform their statutory duties through ~~an automated~~  
19 ~~information exchange. The department and the administrative office of the~~  
20 ~~courts on behalf of the state foster care review board shall enter into a~~  
21 ~~data sharing agreement to govern the parameters of the automated~~  
22 ~~information exchange. On the request of a foster care review board, DIRECT~~  
23 DIRECT REMOTE ONLINE ACCESS TO ALL DCS INFORMATION AS DEFINED IN SECTION 8-801  
24 IDENTIFIED BY THE FOSTER CARE REVIEW BOARD AS NECESSARY FOR THE PERFORMANCE  
25 OF THE BOARD'S DUTIES. IF THE INFORMATION CONTAINED IN THE RECORD IS NOT  
26 AVAILABLE IN AN AUTOMATED CASE MANAGEMENT SYSTEM USED BY THE DEPARTMENT,  
27 THE DEPARTMENT SHALL FURNISH any HARD COPY record pertaining to a case  
28 assigned to ~~such~~ A FOSTER CARE REVIEW board, THAT IS NECESSARY FOR THE  
29 PERFORMANCE OF THE BOARD'S DUTIES AND THAT IS kept by the division or a  
30 child welfare agency, ~~shall be furnished~~ to the board.

1 C. All records and information in the possession of the foster care  
2 review board regarding children and their parents or relatives shall be  
3 deemed confidential and shall be disclosed only pursuant to this chapter or  
4 by order of court.

5 D. A child welfare agency shall furnish a report of each placement  
6 or withdrawal of each child to the division.

7 Sec. 3. Section 8-801, Arizona Revised Statutes, is amended to read:

8 **8-801. Definitions**

9 In this article and articles 9, 10, 11, 12, 13 and 14 of this  
10 chapter, unless the context otherwise requires:

11 1. "Child safety services" means a specialized child welfare program  
12 that is administered by the department as provided in this chapter and that  
13 investigates allegations of and seeks to prevent, intervene in and treat  
14 abuse, ~~and~~ and neglect, to promote the well-being of the child in a permanent  
15 home and to coordinate services to strengthen the family.

16 2. "Child safety worker" or "worker" means a person who has been  
17 selected by and trained under the requirements prescribed by the department  
18 and who assists in carrying out the provisions of this article.

19 **3. "DCS INFORMATION":**

20 (a) INCLUDES ALL INFORMATION THE DEPARTMENT GATHERS DURING THE  
21 COURSE OF AN INVESTIGATION CONDUCTED UNDER THIS CHAPTER FROM THE TIME A  
22 FILE IS OPENED AND UNTIL IT IS CLOSED.

23 (b) DOES NOT INCLUDE INFORMATION THAT IS CONTAINED IN CHILD WELFARE  
24 AGENCY LICENSING RECORDS.

25 ~~3.~~ 4. "In-home intervention" means a program of services provided  
26 pursuant to article 14 of this chapter while the child is still in the  
27 custody of the parent, guardian or custodian.

28 ~~4.~~ 5. "Relative" has the same meaning prescribed in section 8-501.

1           Sec. 4. Section 8-807, Arizona Revised Statutes, is amended to read:

2           8-807. DCS information; public record; use; confidentiality;  
3           violation; classification

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

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

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

20           2. To enforce or prosecute any violation involving child abuse or  
21 neglect or to assert the rights of the child as a victim of a crime.

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

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

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

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

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

7           F. The department may provide:

8           1. DCS information to confirm, clarify, correct or supplement  
9 information concerning an allegation or actual instance of child abuse or  
10 neglect that has been made public by a source or sources outside the  
11 department.

12           2. DCS information to a person who is conducting bona fide research,  
13 the results of which might provide DCS information that is beneficial in  
14 improving the department.

15           3. Access to DCS information to the parent, guardian or custodian of  
16 a child if the DCS information is reasonably necessary to promote the  
17 safety, permanency and well-being of the child.

18           4. DCS information if an employee of the department has a reasonable  
19 belief that exigent circumstances exist. For the purposes of this  
20 paragraph, "exigent circumstances" means a condition or situation in which  
21 the death of or serious injury to a child will likely result in the near  
22 future without immediate intervention.

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

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

28           I. To provide oversight of the department, the department shall  
29 provide access to DCS information to the following persons, if the DCS  
30 information is reasonably necessary for the person to perform the person's  
31 official duties:

- 1           1. Federal or state auditors.
- 2           2. Persons conducting any accreditation deemed necessary by the  
3 department.
- 4           3. A standing committee of the legislature or a committee appointed  
5 by the president of the senate or the speaker of the house of  
6 representatives for purposes of conducting investigations related to the  
7 legislative oversight of the department. This information shall not be  
8 further disclosed unless a court has ordered the disclosure of this  
9 information, the information has been disclosed in a public or court  
10 record, or the information has been disclosed in the course of a public  
11 meeting or court proceeding.
- 12          4. A legislator who requests DCS information in the regular course  
13 of the legislator's duties. A legislator may discuss this information with  
14 another legislator if the other legislator has signed the form prescribed  
15 in subdivision (d) of this paragraph in regard to the specific file that  
16 will be discussed. This information shall not be further disclosed unless  
17 a court has ordered the disclosure of this information, the information has  
18 been disclosed in a public or court record, or the information has been  
19 disclosed in the course of a public meeting or court proceeding. To  
20 request a file pursuant to this paragraph:
  - 21           (a) The legislator shall submit a written request for DCS  
22 information to the presiding officer of the body of which the state  
23 legislator is a member. The request shall state the name of the person  
24 whose case file is to be reviewed and any other information that will  
25 assist the department in locating the file. The presiding officer may  
26 authorize a legislative staff member to attend with the legislator any  
27 meeting to review the file.
  - 28           (b) The presiding officer shall forward the request to the  
29 department within five working days of the receipt of the request.
  - 30           (c) The department shall make the necessary arrangements for the  
31 legislator to review the file at an office of the department, chosen by the  
32 legislator, within ten working days.

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

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

8 6. An independent oversight committee established pursuant to  
9 section 41-3801.

10 7. The governor who shall not disclose any information unless a  
11 court has ordered the disclosure of the information, the information has  
12 been disclosed in a public or court record or the information has been  
13 disclosed in the course of a public meeting or court proceeding.

14 J. A person who has been denied DCS information regarding a fatality  
15 or near fatality caused by abuse, abandonment or neglect pursuant to  
16 subsection L of this section or section 8-807.01 may bring a special action  
17 pursuant to section 39-121.02 in the superior court to order the department  
18 to release that DCS information. A legislator has standing to bring or to  
19 join a special action regarding the release of DCS information or to  
20 challenge the redaction of released DCS information. The plaintiff shall  
21 provide notice to the county attorney, who has standing and may participate  
22 in the action. The court shall review the requested records in camera and  
23 order disclosure consistent with subsections A and L of this section and  
24 section 8-807.01. The court shall take reasonable steps to prevent any  
25 clearly unwarranted invasions of privacy and protect the privacy and  
26 dignity of victims of crime pursuant to article II, section 2.1, subsection  
27 C, Constitution of Arizona.

28 K. The department or a person who is not specifically authorized by  
29 this section to obtain DCS information may petition a judge of the superior  
30 court to order the department to release DCS information. The plaintiff  
31 shall provide notice to the county attorney and to the attorney and  
32 guardian ad litem for the child, who have standing and may participate in

1 the action. The court shall review the requested records in camera and  
2 shall balance the rights of the parties who are entitled to confidentiality  
3 pursuant to this section against the rights of the parties who are seeking  
4 the release of the DCS information. The court may release otherwise  
5 confidential DCS information only if the rights of the parties seeking the  
6 DCS information and any benefits from releasing the DCS information  
7 outweigh the rights of the parties who are entitled to confidentiality and  
8 any harm that may result from releasing the DCS information. The court  
9 shall take reasonable steps to prevent any clearly unwarranted invasions of  
10 privacy and protect the privacy and dignity of victims of crime pursuant to  
11 article II, section 2.1, subsection C, Constitution of Arizona.

12 L. Except as provided in subsection M of this section, before it  
13 releases records under this section or section 8-807.01, the department  
14 shall take whatever precautions it determines are reasonably necessary to  
15 protect the identity and safety of a person who reports child abuse or  
16 neglect and to protect any other person if the department believes that  
17 disclosure of the DCS information would be likely to endanger the life or  
18 safety of any person. The department is not required by this section to  
19 disclose DCS information if the department demonstrates that disclosure  
20 would cause a specific, material harm to a department investigation. The  
21 department is not required by this section to disclose DCS information if,  
22 in consultation with the county attorney, the county attorney demonstrates  
23 that disclosure would cause a specific, material harm to a criminal  
24 investigation or prosecution.

25 M. A person who is the subject of an unfounded report or complaint  
26 made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this  
27 chapter and who believes that the report or complaint was made in bad faith  
28 or with malicious intent may petition a judge of the superior court to  
29 order the department to release the DCS information. The petition shall  
30 specifically set forth reasons supporting the person's belief that the  
31 report or complaint was made in bad faith or with malicious intent. The  
32 court shall review the DCS information in camera and the person filing the

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

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

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

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

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

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

27 S. THE DEPARTMENT SHALL KEEP ALL DCS INFORMATION SEPARATE WITHIN THE  
28 DEPARTMENT'S CASE MANAGEMENT INFORMATION SYSTEM. DCS INFORMATION SHALL BE  
29 KEPT IN THE FOLLOWING CATEGORIES:

30 1. INFORMATION AND RECORDS THAT ARE PROTECTED BY ATTORNEY-CLIENT  
31 PRIVILEGE.

1           2. INFORMATION AND RECORDS THAT ARE CONSIDERED ATTORNEY WORK  
2 PRODUCTS.

3           3. BACKGROUND CHECK INFORMATION THAT IS OBTAINED FROM THE DEPARTMENT  
4 OF PUBLIC SAFETY OR THE FEDERAL BUREAU OF INVESTIGATION. THIS PARAGRAPH  
5 DOES NOT APPLY TO BACKGROUND CHECK INFORMATION THAT IS INDEPENDENTLY  
6 VERIFIED BY THE DEPARTMENT OF CHILD SAFETY.

7           ~~S.~~ T. The department shall adopt rules to facilitate the  
8 accessibility of DCS information.

9           ~~T.~~ U. The department or a person who receives DCS information  
10 pursuant to subsection B of this section shall provide DCS information to  
11 law enforcement and a court to protect the safety of any employee of the  
12 department or the office of the attorney general or to protect a family  
13 member of such an employee.

14           ~~U.~~ V. A person who receives DCS information shall maintain the  
15 confidentiality of the information and shall not further disclose the  
16 information unless the disclosure is authorized by law or a court order.

17           ~~V.~~ W. The department may charge a fee for copying costs required to  
18 prepare DCS information for release pursuant to this section or section  
19 8-807.01.

20           ~~W.~~ X. A person who violates this section is guilty of a class 2  
21 misdemeanor.

22           ~~X. For the purposes of this section, "DCS information" includes all~~  
23 ~~information the department gathers during the course of an investigation~~  
24 ~~conducted under this chapter from the time a file is opened and until it is~~  
25 ~~closed. DCS information does not include information that is contained in~~  
26 ~~child welfare agency licensing records.~~

27           Y. IT IS THE PUBLIC POLICY OF THIS STATE THAT THE OFFICE OF THE  
28 OMBUDSMAN-CITIZENS AIDE HAS DIRECT REMOTE ACCESS TO ALL DCS INFORMATION  
29 WITHIN THE DEPARTMENT'S AUTOMATED CASE MANAGEMENT SYSTEM UNLESS EXPLICITLY  
30 PROHIBITED BY LAW. TOWARD THIS END, ANY PERSON OR ENTITY CHARGED WITH  
31 INTERPRETING THIS CHAPTER AND TITLE 41, CHAPTER 8, ARTICLE 5 SHALL CONSTRUE  
32 THIS CHAPTER IN FAVOR OF OPEN ACCESS FOR THE OFFICE OF THE

1 OMBUDSMAN-CITIZENS AIDE, AND NOTHING IN THIS SECTION SHALL BE CONSTRUED AS  
2 TO RESTRICT OR PERMIT THE DEPARTMENT TO RESTRICT THE ACCESS OF THE OFFICE  
3 OF THE OMBUDSMAN-CITIZENS AIDE TO THE DEPARTMENT'S AUTOMATED CASE  
4 MANAGEMENT SYSTEM OR ANY DCS INFORMATION. THIS SECTION DOES NOT ALLOW  
5 PUBLIC DISCLOSURE AS PROHIBITED BY SECTION 41-1378, SUBSECTIONS F AND G."

6 Amend title to conform

And, as so amended, it do pass

TIMOTHY M. DUNN  
CHAIRMAN

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