

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Special Session
2003

CHAPTER 6

HOUSE BILL 2024

AN ACT

AMENDING SECTIONS 8-201 AND 8-201.01, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 8-223 AND 8-224; AMENDING SECTIONS 8-304, 8-515.05, 8-517, 8-522, 8-531 AND 8-537, ARIZONA REVISED STATUTES; AMENDING SECTION 8-537, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING TITLE 8, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-800; AMENDING SECTIONS 8-801, 8-802, 8-803, 8-804 AND 8-804.01, ARIZONA REVISED STATUTES; REPEALING SECTION 8-807, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 8-807; AMENDING SECTIONS 8-808, 8-811 AND 8-816, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 8-817, 8-818 AND 8-819; AMENDING SECTIONS 8-821, 8-822, 8-823 AND 8-829, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING 8-830; AMENDING SECTIONS 8-842, 8-843, 8-846, 8-847, 8-863, ARIZONA REVISED STATUTES; AMENDING SECTION 8-863, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING TITLE 8, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2907.02; AMENDING SECTIONS 25-403, 41-1291, 41-1953 AND 41-1954, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 14, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1966; AMENDING LAWS 2003, CHAPTER 208, SECTIONS 1 AND 3; PROVIDING FOR THE DELAYED REPEAL OF SECTION 8-223, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; MAKING APPROPRIATIONS; RELATING TO CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 8-201, Arizona Revised Statutes, is amended to
3 read:
4 8-201. Definitions
5 In this title, unless the context otherwise requires:
6 1. "Abandoned" means the failure of the parent to provide reasonable
7 support and to maintain regular contact with the child, including providing
8 normal supervision. Abandoned includes a judicial finding that a parent has
9 made only minimal efforts to support and communicate with the child. Failure
10 to maintain a normal parental relationship with the child without just cause
11 for a period of six months constitutes prima facie evidence of abandonment.
12 2. "Abuse" means the infliction or allowing of physical injury,
13 impairment of bodily function or disfigurement or the infliction of or
14 allowing another person to cause serious emotional damage as evidenced by
15 severe anxiety, depression, withdrawal or untoward aggressive behavior and
16 which emotional damage is diagnosed by a medical doctor or psychologist
17 pursuant to section 8-821 and is caused by the acts or omissions of an
18 individual having care, custody and control of a child. Abuse ~~shall include~~
19 **INCLUDES:**
20 (a) Inflicting or allowing sexual abuse pursuant to section 13-1404,
21 sexual conduct with a minor pursuant to section 13-1405, sexual assault
22 pursuant to section 13-1406, molestation of a child pursuant to section
23 13-1410, commercial sexual exploitation of a minor pursuant to section
24 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest
25 pursuant to section 13-3608 or child prostitution pursuant to section
26 13-3212.
27 (b) **PHYSICAL INJURY TO A CHILD THAT RESULTS FROM ABUSE AS DESCRIBED IN**
28 **SECTION 13-3623, SUBSECTION C.**
29 3. "Adult" means a person who is eighteen years of age or older.
30 4. "Adult court" means the appropriate justice court, municipal court
31 or criminal division of the superior court that has jurisdiction to hear
32 proceedings concerning offenses committed by juveniles as provided in
33 sections 8-327 and 13-501.
34 5. "Award" or "commit" means to assign legal custody.
35 6. "Child", "youth" or "juvenile" means an individual who is under the
36 age of eighteen years.
37 7. "Complaint" means a written statement of the essential facts
38 constituting a public offense that is any of the following:
39 (a) Made on an oath before a judge or commissioner of the superior
40 court or an authorized juvenile hearing officer.
41 (b) Made pursuant to section 13-3903.
42 (c) Accompanied by an affidavit of a law enforcement officer or
43 employee that swears on information and belief to the accuracy of the
44 complaint pursuant to section 13-4261.

1 8. "Custodian" means a person, other than a parent or legal guardian,
2 who stands in loco parentis to the child or a person to whom legal custody of
3 the child has been given by order of the juvenile court.

4 9. "Delinquency hearing" means a proceeding in the juvenile court to
5 determine whether a juvenile has committed a specific delinquent act as set
6 forth in a petition.

7 10. "Delinquent act" means an act by a juvenile that if committed by an
8 adult would be a criminal offense or a petty offense, a violation of any law
9 of this state, or of another state if the act occurred in that state, or a
10 law of the United States, or a violation of any law that can only be violated
11 by a minor and that has been designated as a delinquent offense, or any
12 ordinance of a city, county or political subdivision of this state defining
13 crime. Delinquent act does not include an offense under section 13-501,
14 subsection A or B if the offense is filed in adult court. Any juvenile who
15 is prosecuted as an adult or who is remanded for prosecution as an adult
16 shall not be adjudicated as a delinquent juvenile for the same offense.

17 11. "Delinquent juvenile" means a child who is adjudicated to have
18 committed a delinquent act.

19 12. "Department" means the department of economic security.

20 13. "Dependent child":

21 (a) Means a child who is adjudicated to be:

22 (i) In need of proper and effective parental care and control and who
23 has no parent or guardian, or one who has no parent or guardian willing to
24 exercise or capable of exercising such care and control.

25 (ii) Destitute or who is not provided with the necessities of life,
26 including adequate food, clothing, shelter or medical care, ~~or~~.

27 (iii) A CHILD whose home is unfit by reason of abuse, neglect, cruelty
28 or depravity by a parent, a guardian, ~~or~~ or any other person having custody or
29 care of the child.

30 ~~(iii)~~ (iv) Under the age of eight years and who is found to have
31 committed an act that would result in adjudication as a delinquent juvenile
32 or incorrigible child if committed by an older juvenile or child.

33 ~~(iv)~~ (v) Incompetent or not restorable to competency and who is
34 alleged to have committed a serious offense as defined in section 13-604.

35 (b) Does not include a child who in good faith is being furnished
36 Christian Science treatment by a duly accredited practitioner if none of the
37 circumstances described in subdivision (a) of this paragraph exists.

38 14. "Detention" means the temporary confinement of a juvenile who
39 requires secure care in a physically restricting facility that is completely
40 surrounded by a locked and physically secure barrier with restricted ingress
41 and egress for the protection of the juvenile or the community pending court
42 disposition or as a condition of probation.

43 15. "Incorrigible child" means a child who:

44 (a) Is adjudicated as a child who refuses to obey the reasonable and
45 proper orders or directions of a parent, guardian or custodian and who is
46 beyond the control of that person.

- 1 (b) Is habitually truant from school as defined in section 15-803,
2 subsection C.
- 3 (c) Is a runaway from the child's home or parent, guardian or
4 custodian.
- 5 (d) Habitually behaves in such a manner as to injure or endanger the
6 morals or health of self or others.
- 7 (e) Commits any act constituting an offense that can only be committed
8 by a minor and that is not designated as a delinquent act.
- 9 (f) Fails to obey any lawful order of a court of competent
10 jurisdiction given in a noncriminal action.
- 11 16. "Independent living program" includes a residential program with
12 supervision of less than twenty-four hours a day.
- 13 17. "Juvenile court" means the juvenile division of the superior court
14 when exercising its jurisdiction over children in any proceeding relating to
15 delinquency, dependency or incorrigibility.
- 16 18. "Law enforcement officer" means a peace officer, sheriff, deputy
17 sheriff, municipal police officer or constable.
- 18 19. "Medical director of a mental health agency" means a psychiatrist,
19 or licensed physician experienced in psychiatric matters, who is designated
20 in writing by the governing body of the agency as the person in charge of the
21 medical services of the agency, or a psychiatrist designated by the governing
22 body to act for the director. The term includes the superintendent of the
23 state hospital.
- 24 20. "Mental health agency" means any private or public facility that is
25 licensed by this state as a mental health treatment agency, a psychiatric
26 hospital, a psychiatric unit of a general hospital or a residential treatment
27 center for emotionally disturbed children and that uses secure settings or
28 mechanical restraints.
- 29 21. "Neglect" or "neglected" means the inability or unwillingness of a
30 parent, guardian or custodian of a child to provide that child with
31 supervision, food, clothing, shelter or medical care if that inability or
32 unwillingness causes substantial risk of harm to the child's health or
33 welfare, except if the inability of a parent or guardian to provide services
34 to meet the needs of a child with a disability or chronic illness is solely
35 the result of the unavailability of reasonable services.
- 36 22. "Petition" means a written statement of the essential facts that
37 allege delinquency, incorrigibility or dependency.
- 38 23. "Prevention" means the creation of conditions, opportunities and
39 experiences that encourage and develop healthy, self-sufficient children and
40 that occur before the onset of problems.
- 41 24. "Protective supervision" means supervision that is ordered by the
42 juvenile court of children who are found to be dependent or incorrigible.
- 43 25. "Referral" means a report that is submitted to the juvenile court
44 and that alleges that a child is dependent or incorrigible or that a juvenile
45 has committed a delinquent or criminal act.

1 26. "Secure care" means confinement in a facility that is completely
2 surrounded by a locked and physically secure barrier with restricted ingress
3 and egress.

4 27. "SERIOUS EMOTIONAL INJURY" MEANS AN INJURY THAT IS DIAGNOSED BY A
5 MEDICAL DOCTOR OR A PSYCHOLOGIST AND THAT DOES ANY ONE OR A COMBINATION OF
6 THE FOLLOWING:

7 (a) SERIOUSLY IMPAIRS MENTAL FACULTIES.

8 (b) CAUSES SERIOUS ANXIETY, DEPRESSION, WITHDRAWAL OR SOCIAL
9 DYSFUNCTION BEHAVIOR TO THE EXTENT THAT THE CHILD SUFFERS DYSFUNCTION THAT
10 REQUIRES TREATMENT.

11 (c) IS THE RESULT OF SEXUAL ABUSE PURSUANT TO SECTION 13-1404, SEXUAL
12 CONDUCT WITH A MINOR PURSUANT TO SECTION 13-1405, SEXUAL ASSAULT PURSUANT TO
13 SECTION 13-1406, MOLESTATION OF A CHILD PURSUANT TO SECTION 13-1410, CHILD
14 PROSTITUTION PURSUANT TO SECTION 13-3212, COMMERCIAL SEXUAL EXPLOITATION OF A
15 MINOR PURSUANT TO SECTION 13-3552, SEXUAL EXPLOITATION OF A MINOR PURSUANT TO
16 SECTION 13-3553 OR INCEST PURSUANT TO SECTION 13-3608.

17 28. "SERIOUS PHYSICAL INJURY" MEANS AN INJURY THAT IS DIAGNOSED BY A
18 MEDICAL DOCTOR AND THAT DOES ANY ONE OR A COMBINATION OF THE FOLLOWING:

19 (a) CREATES A REASONABLE RISK OF DEATH.

20 (b) CAUSES SERIOUS OR PERMANENT DISFIGUREMENT.

21 (c) CAUSES SIGNIFICANT PHYSICAL PAIN.

22 (d) CAUSES SERIOUS IMPAIRMENT OF HEALTH.

23 (e) CAUSES THE LOSS OR PROTRACTED IMPAIRMENT OF AN ORGAN OR LIMB.

24 (f) IS THE RESULT OF SEXUAL ABUSE PURSUANT TO SECTION 13-1404, SEXUAL
25 CONDUCT WITH A MINOR PURSUANT TO SECTION 13-1405, SEXUAL ASSAULT PURSUANT TO
26 SECTION 13-1406, MOLESTATION OF A CHILD PURSUANT TO SECTION 13-1410, CHILD
27 PROSTITUTION PURSUANT TO SECTION 13-3212, COMMERCIAL SEXUAL EXPLOITATION OF A
28 MINOR PURSUANT TO SECTION 13-3552, SEXUAL EXPLOITATION OF A MINOR PURSUANT TO
29 SECTION 13-3553 OR INCEST PURSUANT TO SECTION 13-3608.

30 ~~27.~~ 29. "Shelter care" means the temporary care of a child in any
31 public or private facility or home that is licensed by this state and that
32 offers a physically nonsecure environment that is characterized by the
33 absence of physically restricting construction or hardware and that provides
34 the child access to the surrounding community.

35 Sec. 2. Section 8-201.01, Arizona Revised Statutes, is amended to
36 read:

37 8-201.01. Prohibitions

38 Notwithstanding any other provision of this chapter or chapter ~~3-or~~ 10
39 of this title,--:

40 1. ~~no~~ A child who in good faith is being furnished Christian Science
41 treatment by a duly accredited practitioner shall NOT, for that reason alone,
42 be considered to be an abused, neglected or dependent child.

43 2. A CHILD WHOSE PARENT, GUARDIAN OR CUSTODIAN REFUSES TO PUT THE
44 CHILD ON A PSYCHIATRIC MEDICATION OR QUESTIONS THE USE OF A PSYCHIATRIC
45 MEDICATION SHALL NOT BE CONSIDERED TO BE AN ABUSED, NEGLECTED OR DEPENDENT
46 CHILD FOR THAT REASON ALONE.

1 licensed foster parent of the specific reason for the child's planned removal
2 from the licensed foster parent.

3 B. If the licensed foster parent disagrees with the removal, the
4 licensed foster parent shall inform the department within twenty-four hours
5 of being informed. If the licensed foster parent disagrees with the plan to
6 remove the child and place the child in another foster home placement, the
7 department shall convene a case conference to review the reasons for the
8 removal. The licensed foster parent and ~~a member~~ TWO MEMBERS of the foster
9 care review board who ~~participates~~ PARTICIPATE in a removal review team shall
10 participate in the case conference. A CHILD SHALL NOT BE REMOVED UNLESS A
11 MAJORITY OF THE MEMBERS OF THE REVIEW TEAM AGREE THAT REMOVAL IS NECESSARY.

12 C. The department shall inform the licensed foster parent and the
13 foster care review board of the time, date and location of the case
14 conference to review the planned removal. The case conference shall be held
15 within seventy-two hours of the licensed foster parent informing the
16 department that the licensed foster parent disagrees with the planned
17 removal, excluding weekends and holidays. The child shall remain in the
18 current placement pending the outcome of the case conference.

19 D. If, as a result of the case conference, it is the department's
20 continued intent to move the child pursuant to subsection A and the licensed
21 foster parent continues to disagree and the child:

22 1. Is in the court ordered physical custody of the licensed foster
23 parent, a foster care review board member shall provide a recommendation to
24 the court regarding the removal of the child before the change of physical
25 custody. The child shall remain in the current placement pending a court
26 order for removal.

27 2. Is not in the physical custody of the licensed foster parent, the
28 licensed foster parent shall be advised of the department's conflict
29 resolution process. The department shall expedite the conflict resolution
30 process. The child shall remain in the current placement pending the outcome
31 of the conflict resolution process.

32 Sec. 6. Section 8-517, Arizona Revised Statutes, is amended to read:

33 8-517. Withdrawal from foster home

34 The division or agency that placed the child may withdraw a child from
35 a foster home ONLY when the division or agency determines that withdrawal is
36 ACCORDING TO WRITTEN, SPECIFIC STANDARDS AND IS CLEARLY necessary for the
37 child's interests and welfare. The division may change the placement of a
38 child made pursuant to section 8-514.02 if ~~such~~ THE change is necessary for
39 the child's BEST interests and welfare.

40 Sec. 7. Section 8-522, Arizona Revised Statutes, is amended to read:

41 8-522. Dependency actions; special advocate; appointment;
42 duties; immunity

43 A. The presiding judge of the juvenile court in each county may
44 appoint an adult as a special advocate to be the guardian ad litem for a
45 child who is the subject of a dependency action. The court shall make this
46 appointment at the earliest possible stage in the proceedings. A CHILD,

1 THROUGH THE CHILD'S GUARDIAN AD LITEM OR ATTORNEY, HAS THE RIGHT TO BE
2 INFORMED OF, TO BE PRESENT AT AND TO BE HEARD IN ANY PROCEEDING INVOLVING
3 DEPENDENCY OR TERMINATION OF PARENTAL RIGHTS.

4 B. The supreme court shall certify special advocates pursuant to rules
5 adopted by the court. Court rules for certification shall include compliance
6 with qualification standards prescribed by the court.

7 C. The appointment of the special advocate continues until the court
8 relieves the advocate of the advocate's responsibilities or until the court
9 dismisses the action before it.

10 D. A special advocate serves without compensation but is entitled to
11 reimbursement of expenses pursuant to guidelines prescribed by the supreme
12 court by rule.

13 E. A special advocate shall:

14 1. MEET WITH THE CHILD.

15 2. ADVOCATE FOR THE CHILD'S SAFETY AS THE FIRST PRIORITY.

16 ~~1-~~ 3. Gather and provide independent, factual information to aid the
17 court in making its decision regarding what is in the child's best interest
18 and in determining if reasonable efforts have been made to prevent removal of
19 the child from the child's home or ~~in-reunifying~~ TO REUNITE the child with
20 the child's family.

21 ~~2-~~ 4. Provide advocacy to ensure that appropriate case planning and
22 services are provided for the child.

23 ~~3-~~ 5. Perform other duties prescribed by the supreme court by rule.

24 F. A special advocate shall have access to all documents and
25 information regarding the child and the child's family without obtaining
26 prior approval of the child, the child's family or the court. All records
27 and information the special advocate acquires, ~~or reviews during the course~~
28 ~~of the advocate's appointment and all work products and reports produced by~~
29 ~~the special advocate are confidential and~~ OR PRODUCES may only be disclosed
30 as provided for in section 41-1959.

31 G. The special advocate shall receive notice of all hearings,
32 staffings, investigations and other matters concerning the child. The
33 special advocate shall have a right to participate in the formulation of any
34 agreement, stipulation or case plan entered into regarding the child.

35 H. A special advocate is immune from civil or criminal liability for
36 the advocate's acts or omissions in connection with the authorized
37 responsibilities the special advocate performs in good faith.

38 Sec. 8. Section 8-531, Arizona Revised Statutes, is amended to read:

39 8-531. Definitions

40 In this article, unless the context otherwise requires:

41 1. "Abandonment" means the failure of a parent to provide reasonable
42 support and to maintain regular contact with the child, including providing
43 normal supervision. Abandonment includes a judicial finding that a parent
44 has made only minimal efforts to support and communicate with the child.
45 Failure to maintain a normal parental relationship with the child without

1 just cause for a period of six months constitutes prima facie evidence of
2 abandonment.

3 ~~2. "Abuse" means the infliction of or allowing physical injury,~~
4 ~~impairment of bodily function or disfigurement or the infliction of or~~
5 ~~allowing another person to cause serious emotional damage as evidenced by~~
6 ~~severe anxiety, depression, withdrawal or aggressive behavior and which~~
7 ~~emotional damage is diagnosed by a medical doctor or psychologist pursuant to~~
8 ~~section 8-821 and which is caused by the acts or omissions of an individual~~
9 ~~having care, custody and control of a child. Abuse shall include Inflicting~~
10 ~~or allowing sexual abuse pursuant to section 13-1404, sexual conduct with a~~
11 ~~minor pursuant to section 13-1405, sexual assault pursuant to section~~
12 ~~13-1406, molestation of a child pursuant to section 13-1410, commercial~~
13 ~~sexual exploitation of a minor pursuant to section 13-3552, sexual~~
14 ~~exploitation of a minor pursuant to section 13-3553, incest pursuant to~~
15 ~~section 13-3608 or child prostitution pursuant to section 13-3212.~~

16 ~~3.~~ 2. "Agency" means an agency licensed by the division to place
17 children for adoption.

18 ~~4.~~ 3. "Child" means a person less than eighteen years of age.

19 ~~5.~~ 4. "Custodian" means a person, other than a parent or legal
20 guardian, who stands in loco parentis to the child or a person to whom legal
21 custody of the child has been given by order of a court of competent
22 jurisdiction.

23 ~~6.~~ 5. "Custody" or "legal custody" means a status embodying all of
24 the following rights and responsibilities:

25 (a) The right to have physical possession of the child.

26 (b) The right and the duty to protect, train and discipline the child.

27 (c) The responsibility to provide the child with adequate food,
28 clothing, shelter, education and medical care, provided that such rights and
29 responsibilities shall be exercised subject to the powers, rights, duties and
30 responsibilities of the guardian of the person and subject to the residual
31 parental rights and responsibilities if they have not been terminated by
32 judicial decree.

33 ~~7.~~ 6. "Division" means the department of economic security.

34 ~~8.~~ 7. "Guardian ad litem" means a person appointed by the court to
35 protect the interest of a minor or an incompetent in a particular case before
36 the court.

37 ~~9.~~ 8. "Guardianship of the person" with respect to a minor means the
38 duty and authority to make important decisions in matters affecting the minor
39 including but not necessarily limited either in number or kind to:

40 (a) The authority to consent to marriage, to enlistment in the armed
41 forces of the United States and to major medical, psychiatric and surgical
42 treatment, to represent the minor in legal actions, and to make other
43 decisions concerning the child of substantial legal significance.

1 (b) The authority and duty of reasonable visitation, except to the
2 extent that such right of visitation has been limited by court order.

3 (c) The rights and responsibilities of legal custody, except where
4 legal custody has been vested in another individual or in an authorized
5 agency.

6 (d) When the parent-child relationship has been terminated by judicial
7 decree with respect to the parents, or only living parent, or when there is
8 no living parent, the authority to consent to the adoption of the child and
9 to make any other decision concerning the child which the child's parents
10 could make.

11 ~~10.~~ 9. "Juvenile court" means the juvenile division of the superior
12 court.

13 ~~11. "Neglect" or "neglected" means the inability or unwillingness of a
14 parent, guardian or custodian of a child to provide that child with
15 supervision, food, clothing, shelter or medical care if that inability or
16 unwillingness causes substantial risk of harm to the child's health or
17 welfare, unless the inability of a parent or guardian to provide services to
18 meet the needs of a child with a disability or chronic illness is solely the
19 result of the unavailability of reasonable services.~~

20 ~~12.~~ 10. "Parent" means the natural or adoptive mother or father of a
21 child.

22 ~~13.~~ 11. "Parent-child relationship" includes all rights, privileges,
23 duties and obligations existing between parent and child, including
24 inheritance rights.

25 ~~14.~~ 12. "Parties" includes the child, the petitioners and any parent
26 of the child required to consent to the adoption pursuant to section 8-106.

27 ~~15. "Serious physical or emotional injury" means an injury diagnosed by
28 a medical doctor or a psychologist that:~~

29 ~~(a) Creates a reasonable risk of death.~~

30 ~~(b) Causes serious or permanent disfigurement.~~

31 ~~(c) Causes extreme physical pain.~~

32 ~~(d) Causes serious impairment of health.~~

33 ~~(e) Causes the loss or protracted impairment of an organ or limb.~~

34 ~~(f) Impairs mental faculties.~~

35 ~~(g) Causes anxiety, depression, withdrawal or social dysfunction
36 behavior to the extent that the child suffers severe dysfunction that
37 requires treatment.~~

38 ~~(h) Causes the infliction of or allows multiple or repeated acts of
39 sexual abuse pursuant to section 13-1404, sexual conduct with a minor
40 pursuant to section 13-1405, sexual assault pursuant to section 13-1406,
41 molestation of a child pursuant to section 13-1410, commercial sexual
42 exploitation of a minor pursuant to section 13-3552, sexual exploitation of a
43 minor pursuant to section 13-3553, incest pursuant to section 13-3608 or
44 child prostitution pursuant to section 13-3212.~~

45 Sec. 9. Section 8-537, Arizona Revised Statutes, is amended to read:

46 8-537. Termination adjudication hearing

1 A. If a petition for terminating the parent-child relationship is
2 contested, the court shall hold a termination adjudication hearing. The
3 general public shall be excluded and only such persons admitted whose
4 presence the judge finds to have a direct interest in the case or the work of
5 the court, provided that such person so admitted shall not disclose any
6 information secured at the hearing. The court may require the presence of
7 any parties and witnesses it deems necessary to the disposition of the
8 petition, except that a parent who has executed a waiver pursuant to section
9 8-535, or has relinquished the parent's rights to the child shall not be
10 required to appear at the hearing.

11 B. The court's **OR JURY'S** findings with respect to grounds for
12 termination shall be based upon clear and convincing evidence under the rules
13 applicable and adhering to the trial of civil causes. The court **OR JURY** may
14 consider any and all reports required by this article or ordered by the court
15 pursuant to this article and such reports are admissible in evidence without
16 objection.

17 C. If a parent does not appear at the pretrial conference, status
18 conference or termination adjudication hearing, the court, after determining
19 that the parent has been instructed as provided in section 8-535, may find
20 that the parent has waived the parent's legal rights and is deemed to have
21 admitted the allegations of the petition by the failure to appear. The court
22 may terminate the parent-child relationship as to a parent who does not
23 appear based on the record and evidence presented as provided in rules
24 prescribed by the supreme court.

25 Sec. 10. Section 8-537, Arizona Revised Statutes, as amended by this
26 act, is amended effective from and after December 31, 2006, to read:

27 8-537. Termination adjudication hearing

28 A. If a petition for terminating the parent-child relationship is
29 contested, the court shall hold a termination adjudication hearing. The
30 general public shall be excluded and only such persons admitted whose
31 presence the judge finds to have a direct interest in the case or the work of
32 the court, provided that such person so admitted shall not disclose any
33 information secured at the hearing. The court may require the presence of
34 any parties and witnesses it deems necessary to the disposition of the
35 petition, except that a parent who has executed a waiver pursuant to section
36 8-535, or has relinquished the parent's rights to the child shall not be
37 required to appear at the hearing.

38 B. The court's ~~or jury's~~ findings with respect to grounds for
39 termination shall be based upon clear and convincing evidence under the rules
40 applicable and adhering to the trial of civil causes. The court ~~or jury~~ may
41 consider any and all reports required by this article or ordered by the court
42 pursuant to this article and such reports are admissible in evidence without
43 objection.

44 C. If a parent does not appear at the pretrial conference, status
45 conference or termination adjudication hearing, the court, after determining
46 that the parent has been instructed as provided in section 8-535, may find

1 that the parent has waived the parent's legal rights and is deemed to have
2 admitted the allegations of the petition by the failure to appear. The court
3 may terminate the parent-child relationship as to a parent who does not
4 appear based on the record and evidence presented as provided in rules
5 prescribed by the supreme court.

6 Sec. 11. Title 8, chapter 10, article 1, Arizona Revised Statutes, is
7 amended by adding section 8-800, to read:

8 8-800. Purpose of child protective services

9 THE PRIMARY PURPOSES OF CHILD PROTECTIVE SERVICES ARE TO PROTECT
10 CHILDREN BY INVESTIGATING ALLEGATIONS OF ABUSE AND NEGLECT, PROMOTING THE
11 WELL-BEING OF THE CHILD IN A PERMANENT HOME AND COORDINATING SERVICES TO
12 STRENGTHEN THE FAMILY AND PREVENT, INTERVENE IN AND TREAT ABUSE AND NEGLECT
13 OF CHILDREN.

14 Sec. 12. Section 8-801, Arizona Revised Statutes, is amended to read:

15 8-801. Definitions

16 In this chapter, unless the context otherwise requires:

17 1. "CHILD PROTECTIVE SERVICES WORKER" OR "WORKER" MEANS A PERSON WHO
18 HAS BEEN SELECTED BY AND TRAINED UNDER THE REQUIREMENTS PRESCRIBED BY THE
19 DEPARTMENT AND WHO ASSISTS IN CARRYING OUT THE PROVISIONS OF THIS ARTICLE.

20 2. "EXTREMELY SERIOUS CONDUCT ALLEGATION" MEANS AN ALLEGATION OF
21 CONDUCT BY A PARENT, GUARDIAN OR CUSTODIAN OF A CHILD THAT, IF TRUE, WOULD
22 CONSTITUTE ANY OF THE FOLLOWING:

23 (a) A VIOLATION OF SECTION 13-3623 INVOLVING CHILD ABUSE.

24 (b) A FELONY OFFENSE THAT CONSTITUTES DOMESTIC VIOLENCE AS DEFINED IN
25 SECTION 13-3601.

26 (c) A VIOLATION OF SECTION 13-1404 OR 13-1406 INVOLVING A MINOR.

27 (d) A VIOLATION OF SECTION 13-1405, 13-1410 OR 13-1417.

28 (e) ANY OTHER ACT OF ABUSE THAT IS CLASSIFIED AS A FELONY.

29 3. "IN-HOME INTERVENTION" MEANS A PROGRAM OF SERVICES PROVIDED
30 PURSUANT TO ARTICLE 7 OF THIS CHAPTER WHILE THE CHILD IS STILL IN THE CUSTODY
31 OF THE PARENT, GUARDIAN OR CUSTODIAN.

32 ~~1. 4. "Protective services" means an identifiable and~~ A specialized
33 child welfare program THAT IS ADMINISTERED BY THE DEPARTMENT AS PROVIDED IN
34 THIS CHAPTER AND that INVESTIGATES ALLEGATIONS OF AND seeks to prevent
35 ~~dependency~~, INTERVENE IN AND TREAT abuse and NEGLECT, TO PROMOTE THE
36 WELL-BEING OF THE CHILD IN A PERMANENT HOME AND TO COORDINATE SERVICES TO
37 STRENGTHEN THE FAMILY. ~~exploitation of children by reaching out with social~~
38 ~~services to stabilize family life and that seeks to preserve the family unit~~
39 ~~by focusing on families in which unresolved problems have produced visible~~
40 ~~signs of dependency or abuse and the home situation presents actual and~~
41 ~~potential hazards to the physical or emotional well-being of children. The~~
42 ~~program shall seek to strengthen parental capacity and ability to provide~~
43 ~~child care.~~

44 ~~2. "Protective services worker" or "worker" means a person who has~~
45 ~~been selected by and trained under the requirements prescribed by the~~

1 ~~department of economic security and who assists in carrying out the~~
2 ~~provisions of this article.~~

3 Sec. 13. Section 8-802, Arizona Revised Statutes, is amended to read:

4 8-802. Child protective services worker; powers and duties;
5 alteration of files; violation; classification

6 A. THE DEPARTMENT SHALL EMPLOY CHILD protective services workers ~~shall~~
7 ~~be employed by the state department of economic security.~~ THE DEPARTMENT
8 SHALL NOT HIRE A PERSON AS A CHILD PROTECTIVE SERVICES WORKER IF THE PERSON
9 HAS BEEN CONVICTED OF AN OFFENSE DESCRIBED IN SECTION 41-1758.03, SUBSECTION
10 B OR C.

11 B. The department may cooperate with county agencies and community
12 social services agencies to achieve the purposes of this section.

13 C. A CHILD protective services worker shall:

14 1. PROMOTE THE SAFETY AND PROTECTION OF CHILDREN.

15 2. ACCEPT, SCREEN AND ASSESS REPORTS OF ABUSE OR NEGLECT PURSUANT TO
16 SECTION 8-817.

17 ~~1-~~ 3. ~~Be prepared to~~ Receive reports of dependent, abused or
18 abandoned children and be prepared to provide temporary foster care for such
19 children on a twenty-four hour basis.

20 ~~2-~~ 4. Receive from any source oral or written information regarding a
21 child who may be in need of protective services. A worker shall not
22 interview a child without the prior written consent of the parent, guardian
23 or custodian of the child unless either:

24 (a) The child initiates contact with the worker.

25 (b) The child WHO IS interviewed is the subject of or is the sibling
26 of or living with the child who is the subject of an abuse or abandonment
27 investigation pursuant to paragraph ~~3-~~ 5, subdivision (b) of this subsection.

28 ~~3-~~ 5. After THE receipt ~~and initial screening pursuant to rules~~
29 ~~adopted by the department under title 41, chapter 6~~ of any report or
30 information pursuant to paragraph ~~1-~~ 2, 3 or ~~2-~~ 4 of this subsection,
31 immediately do both of the following:

32 (a) Notify the municipal or county law enforcement agency.

33 (b) Make a prompt and thorough investigation of the nature, extent and
34 cause of any condition ~~which~~ THAT would tend to support or refute the
35 allegation that the child should be adjudicated dependent and the name, age
36 and condition of other children in the home. AN EXTREMELY SERIOUS CONDUCT
37 ALLEGATION SHALL BE INVESTIGATED ACCORDING TO THE PROTOCOLS ESTABLISHED
38 PURSUANT TO SECTION 8-817 WITH THE APPROPRIATE MUNICIPAL OR COUNTY LAW
39 ENFORCEMENT AGENCY AS PROVIDED IN SECTION 8-817.

40 ~~4-~~ 6. Take a child into temporary custody as provided in section
41 8-821. Law enforcement officers shall cooperate with the department to
42 remove a child from the custody of the child's parents, guardian or custodian
43 when necessary.

44 ~~5-~~ 7. After investigation, evaluate conditions created by the
45 parents, guardian or custodian ~~which~~ THAT would support or refute the
46 allegation that the child should be adjudicated dependent. The CHILD

1 protective services worker shall then determine whether any child is in need
2 of protective services.

3 ~~6-~~ 8. Offer to the family of any child WHO IS found to be a child in
4 need of protective services those services THAT ARE designed to correct
5 unresolved problems which THAT would indicate A reason to adjudicate the
6 child dependent.

7 ~~7-~~ 9. Submit a written report of the worker's investigation to:

8 (a) The department's case management information system within
9 twenty-one days after receipt of the initial information except as provided
10 in section 8-811. If the investigation involves allegations regarding a
11 child who at the time of the alleged incident was in the custody of a child
12 welfare agency licensed by the department of economic security under this
13 title, a copy of the report and any additional investigative or other related
14 reports shall be provided to the board of directors of the agency or to the
15 administrative head of the agency unless the incident is alleged to have been
16 committed by the person. The department shall excise all information with
17 regard to the identity of the source of the reports.

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

23 ~~8-~~ 10. Accept a child into voluntary placement pursuant to section
24 8-806.

25 D. No child shall remain in temporary custody for a period exceeding
26 seventy-two hours, excluding Saturdays, Sundays and holidays, unless a
27 dependency petition is filed. If no petition is filed and the child is
28 released to the child's parent, guardian or custodian, the worker shall file
29 a report of removal with the central registry within seventy-two hours of the
30 child's release. The report shall include:

31 1. The dates of previous referrals, investigations or temporary
32 custody.

33 2. The dates on which other children in the family have been taken
34 into temporary custody.

35 E. THE DEPARTMENT SHALL PROVIDE CHILD PROTECTIVE SERVICES WORKERS WHO
36 INVESTIGATE ALLEGATIONS OF ABUSE AND NEGLECT WITH TRAINING IN FORENSIC
37 INTERVIEWING AND PROCESSES, THE PROTOCOLS DEVELOPED PURSUANT TO SECTION 8-817
38 AND RELEVANT LAW ENFORCEMENT PROCEDURES. ALL CHILD PROTECTIVE SERVICES
39 WORKERS SHALL BE TRAINED IN THEIR DUTY TO PROTECT THE LEGAL RIGHTS OF
40 CHILDREN AND FAMILIES FROM THE TIME OF THE INITIAL CONTACT THROUGH TREATMENT.
41 THE TRAINING FOR CHILD PROTECTIVE SERVICES WORKERS SHALL ALSO INCLUDE
42 INSTRUCTION ON THE LEGAL RIGHTS OF PARENTS AND THE REQUIREMENTS FOR LEGAL
43 SEARCH AND SEIZURE BY LAW ENFORCEMENT OFFICERS.

44 ~~E-~~ F. Any person who alters a client file for the purpose of fraud or
45 misrepresentation is guilty of a class 2 misdemeanor.

46 Sec. 14. Section 8-803, Arizona Revised Statutes, is amended to read:

1 8-803. Limitation of authority; duty to inform

2 A. Upon initial contact with a parent, guardian or custodian under
3 investigation pursuant to this article, a CHILD protective services worker
4 shall inform the family that the family is under investigation by the
5 department, SHALL INFORM THE PARENT, GUARDIAN OR CUSTODIAN OF THE SPECIFIC
6 COMPLAINT OR ALLEGATION MADE AGAINST THAT PERSON and shall make clear that
7 the ~~protective services~~ worker has no legal authority to compel the family to
8 cooperate with the investigation or to receive protective services offered
9 pursuant to the investigation. The ~~protective services~~ worker shall inform
10 the family of the worker's authority to petition the juvenile court for a
11 determination that a child is dependent. The ~~protective services~~ worker
12 shall inform the parent, guardian or custodian of that person's right to
13 participate in the mediation program in the attorney general's office, to
14 file a complaint with the ombudsman-citizens aide pursuant to section 41-1376
15 and to appeal determinations made by child protective services. The worker
16 shall provide the telephone numbers of these state agencies. The ~~protective~~
17 ~~services~~ worker shall supply the information prescribed in this subsection
18 and information outlining parental rights under the laws of this state in
19 writing and shall make all reasonable efforts to receive written
20 acknowledgment from the parent, guardian or custodian.

21 B. The CHILD protective services worker shall also inform the person
22 about whom the report was made about that person's right to respond to the
23 allegations either verbally or in writing, including any documentation, and
24 to have this information considered in determining if the child is in need of
25 protective services. The ~~protective services~~ worker shall tell the person
26 that anything the person says or writes can be used in a court proceeding. If
27 the person makes a verbal response, the ~~protective services~~ worker shall
28 include the response in the written report of the investigation. If the
29 person makes a written response, including any documentation, the ~~protective~~
30 ~~services~~ worker shall include this response and the documentation in the case
31 file. Information provided in response to the allegations shall be
32 considered during the investigation by the ~~protective services~~ worker. The
33 ~~protective services~~ worker shall maintain the response and documentation in
34 the case file and provide this information to the court before a hearing or
35 trial relating to the dependency petition.

36 C. If the family declines to cooperate with the investigation or to
37 accept or to participate in the offered services, or if the worker otherwise
38 believes that the child should be adjudicated dependent, the worker may file
39 with the juvenile court a petition requesting that the child in need of
40 protective services be adjudicated dependent.

41 D. Refusal to cooperate in the investigation or to participate in the
42 offered services does not constitute grounds for temporary custody of a child
43 except if there is a clear necessity for temporary custody as provided in
44 section 8-821.

45 Sec. 15. Section 8-804, Arizona Revised Statutes, is amended to read:

46 8-804. Central registry; notification

1 A. The department of economic security shall maintain a central
2 registry of reports of child abuse and neglect that are substantiated and the
3 outcome of the investigation of these reports made under this article. The
4 department shall incorporate duplicate reports on the same incident in the
5 original report and shall not classify duplicate reports as new reports.

6 B. Information contained in the central registry shall be used by the
7 department only for the following purposes:

8 1. To conduct background checks as one factor to determine
9 qualifications for foster home licensing, adoptive parent certification,
10 child care home certification, registration of unregulated child care homes
11 with the child care resource and referral system, and home and community
12 based services certification for services to children.

13 2. TO CONDUCT BACKGROUND CHECKS AS ONE FACTOR TO DETERMINE
14 QUALIFICATIONS FOR PERSONS APPLYING FOR EMPLOYMENT WITH THIS STATE IN
15 POSITIONS THAT PROVIDE DIRECT SERVICE TO CHILDREN OR VULNERABLE ADULTS AND
16 PERSONS APPLYING FOR CONTRACTS WITH THIS STATE, INCLUDING EMPLOYEES OF THE
17 POTENTIAL CONTRACTOR, FOR POSITIONS THAT PROVIDE DIRECT SERVICE TO CHILDREN
18 OR VULNERABLE ADULTS.

19 ~~2-~~ 3. To identify and review reports concerning individual children
20 and families, in order to facilitate the assessment of risk.

21 ~~3-~~ 4. To determine the nature and scope of child abuse and neglect in
22 this state and to provide statewide statistical and demographic information
23 concerning trends in child abuse and neglect.

24 ~~4-~~ 5. To allow comparisons of this state's statistical data with
25 national data.

26 ~~5-~~ 6. To comply with section 8-804.01, subsection B.

27 C. If the department received a report before September 1, 1999 and
28 determined that the report was substantiated, the department shall maintain
29 the report in the central registry until eighteen years from the child
30 victim's date of birth.

31 D. If the department received a report on or after September 1, 1999
32 and determined that the report was substantiated, the department shall
33 maintain the report in the central registry for twenty-five years after the
34 date of the report.

35 E. The department shall annually purge reports and investigative
36 outcomes received pursuant to the time frames prescribed in subsections C and
37 D of this section.

38 F. Any person who was the subject of a child protective services
39 investigation may request confirmation that the department has purged
40 information about the person pursuant to subsection E of this section. On
41 receipt of this request, the department shall provide the person with written
42 confirmation that the department has no record containing identifying
43 information about that person.

44 Sec. 16. Section 8-804.01, Arizona Revised Statutes, is amended to
45 read:

46 8-804.01. Maintenance of reports; records

1 A. All reports of child abuse and neglect and related records shall be
2 maintained in the department's case management information system in
3 accordance with the time frames established in the department's records
4 retention schedule.

5 B. In addition to the purposes prescribed in section 8-807, reports
6 and related records maintained pursuant to subsection A of this section shall
7 be used by the department only for the following purposes:

8 1. To assess the safety and risk to a child when conducting an
9 investigation or identification of abuse or neglect.

10 2. To determine placement for a child that is the least restrictive
11 setting.

12 3. To determine the type and level of services and treatment provided
13 to the child and the child's family.

14 4. To assist in a criminal investigation or prosecution of child abuse
15 or neglect.

16 5. To meet state and federal reporting requirements.

17 C. Notwithstanding section 8-807 and except as otherwise provided by
18 law, reports and related records maintained pursuant to subsection A of this
19 section shall not be used for purposes of employment or background checks,
20 except for background checks conducted pursuant to section 8-804,
21 subsection B, [PARAGRAPH 1](#).

22 D. If probable cause exists that abuse or neglect of a child has
23 occurred, the department shall record this finding. The department may make
24 this finding independent of whether a specific person is identified as
25 responsible for the abuse or neglect.

26 E. If the department is unable to locate a child who is the subject of
27 a report of abuse or neglect, the department shall record ~~its findings~~ THIS
28 FINDING separate from its other findings.

29 F. Subject to the requirements of sections 8-804 and 8-811, whenever
30 possible, the department shall determine if a specific person is responsible
31 for the abuse or neglect of a child.

32 ~~G. For the purposes of this section, "records" has the same meaning~~
33 ~~prescribed in section 8-807.~~

34 Sec. 17. [Repeal](#)

35 Section 8-807, Arizona Revised Statutes, is repealed.

36 Sec. 18. Title 8, chapter 10, article 1, Arizona Revised Statutes, is
37 amended by adding a new section 8-807, to read:

38 8-807. [CPS information; public record; use; confidentiality;](#)
39 [violation; classification; definitions](#)

40 A. CPS INFORMATION SHALL BE MAINTAINED BY THE DEPARTMENT AS REQUIRED
41 BY FEDERAL LAW AS A CONDITION OF THE ALLOCATION OF FEDERAL MONIES TO THIS
42 STATE. ALL EXCEPTIONS FOR THE PUBLIC RELEASE OF CPS INFORMATION SHALL BE
43 CONSTRUED AS OPENLY AS POSSIBLE UNDER FEDERAL LAW.

44 B. IF THERE IS A REASONABLE NEED FOR THE CPS INFORMATION, THE
45 DEPARTMENT, OR A PERSON WHO RECEIVES CPS INFORMATION PURSUANT TO THIS
46 SUBSECTION, SHALL PROVIDE CPS INFORMATION TO A FEDERAL AGENCY, A STATE

1 AGENCY, A TRIBAL AGENCY, A COUNTY OR MUNICIPAL AGENCY, A COUNTY ATTORNEY, A
2 SCHOOL, A COMMUNITY SERVICE PROVIDER, A CONTRACT SERVICE PROVIDER OR ANY
3 OTHER PERSON THAT IS PROVIDING SERVICES PURSUANT TO THIS CHAPTER:

4 1. TO MEET ITS DUTIES TO PROVIDE FOR THE SAFETY, PERMANENCY AND
5 WELL-BEING OF A CHILD, PROVIDE SERVICES TO A PARENT, GUARDIAN OR CUSTODIAN OR
6 PROVIDE SERVICES TO FAMILY MEMBERS TO STRENGTHEN THE FAMILY PURSUANT TO THIS
7 CHAPTER.

8 2. TO ENFORCE OR PROSECUTE ANY VIOLATION INVOLVING CHILD ABUSE OR
9 NEGLECT, INCLUDING PROVISION OF THE CPS INFORMATION TO A DEFENDANT AFTER A
10 CRIMINAL CHARGE HAS BEEN FILED.

11 C. THE DEPARTMENT SHALL DISCLOSE CPS INFORMATION TO A COURT, A PARTY
12 IN A DEPENDENCY OR TERMINATION OF PARENTAL RIGHTS PROCEEDING OR THE PARTY'S
13 ATTORNEY, THE FOSTER CARE REVIEW BOARD OR A COURT APPOINTED SPECIAL ADVOCATE
14 FOR THE PURPOSES OF AND AS PRESCRIBED IN THIS TITLE.

15 D. THE DEPARTMENT SHALL DISCLOSE CPS INFORMATION TO A DOMESTIC
16 RELATIONS, FAMILY OR CONCILIATION COURT IF THE CPS INFORMATION IS NECESSARY
17 TO PROMOTE THE SAFETY AND WELL-BEING OF CHILDREN. THE COURT SHALL NOTIFY THE
18 PARTIES THAT IT HAS RECEIVED THE CPS INFORMATION.

19 E. A PERSON OR AGENT OF A PERSON WHO IS THE SUBJECT OF CPS INFORMATION
20 SHALL HAVE ACCESS TO CPS INFORMATION CONCERNING THAT PERSON.

21 F. THE DEPARTMENT:

22 1. MAY PROVIDE CPS INFORMATION TO CONFIRM, CLARIFY OR CORRECT
23 INFORMATION CONCERNING AN ALLEGATION OR ACTUAL INSTANCE OF CHILD ABUSE OR
24 NEGLECT THAT HAS BEEN MADE PUBLIC BY SOURCES OUTSIDE THE DEPARTMENT.

25 2. MAY PROVIDE AND, ON REQUEST, SHALL PROVIDE SUMMARY INFORMATION
26 REGARDING A FATALITY OR NEAR FATALITY CAUSED BY ABUSE OR NEGLECT.

27 3. MAY PROVIDE CPS INFORMATION TO A PERSON WHO IS CONDUCTING BONA FIDE
28 RESEARCH, THE RESULTS OF WHICH MIGHT PROVIDE CPS INFORMATION THAT IS
29 BENEFICIAL IN IMPROVING CHILD PROTECTIVE SERVICES.

30 4. MAY PROVIDE ACCESS TO CPS INFORMATION TO THE PARENT, GUARDIAN OR
31 CUSTODIAN OF A CHILD IF THE CPS INFORMATION IS REASONABLY NECESSARY TO
32 PROMOTE THE SAFETY, PERMANENCY AND WELL-BEING OF THE CHILD.

33 G. ACCESS TO CPS INFORMATION IN THE CENTRAL REGISTRY SHALL BE PROVIDED
34 AS PRESCRIBED IN SECTION 8-804.

35 H. TO PROVIDE OVERSIGHT OF CHILD PROTECTIVE SERVICES, THE DEPARTMENT
36 SHALL PROVIDE ACCESS TO CPS INFORMATION TO THE FOLLOWING PERSONS, IF THE CPS
37 INFORMATION IS REASONABLY NECESSARY FOR THE PERSON TO PERFORM THE PERSON'S
38 OFFICIAL DUTIES:

39 1. FEDERAL OR STATE AUDITORS.

40 2. PERSONS CONDUCTING ANY ACCREDITATION DEEMED NECESSARY BY THE
41 DEPARTMENT.

42 3. A STANDING COMMITTEE OF THE LEGISLATURE OR A COMMITTEE APPOINTED BY
43 THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
44 FOR PURPOSES OF CONDUCTING INVESTIGATIONS RELATED TO THE LEGISLATIVE
45 OVERSIGHT OF THE DEPARTMENT OF ECONOMIC SECURITY. THIS INFORMATION SHALL NOT
46 BE FURTHER DISCLOSED.

1 4. A LEGISLATOR WHO IS RESPONSIBLE FOR OVERSIGHT OF THE ENABLING OR
2 APPROPRIATING LEGISLATION TO CARRY OUT THESE FUNCTIONS. THIS INFORMATION
3 SHALL NOT BE FURTHER DISCLOSED. TO REQUEST A FILE PURSUANT TO THIS PARAGRAPH:

4 (a) THE LEGISLATOR SHALL SUBMIT A WRITTEN REQUEST FOR CPS INFORMATION
5 TO THE PRESIDING OFFICER OF THE BODY OF WHICH THE STATE LEGISLATOR IS A
6 MEMBER. THE REQUEST SHALL STATE THE NAME OF THE PERSON WHOSE CASE FILE IS TO
7 BE REVIEWED AND ANY OTHER INFORMATION THAT WILL ASSIST THE DEPARTMENT IN
8 LOCATING THE FILE. THE REQUEST SHALL ALSO INCLUDE THE OFFICE OF THE
9 DEPARTMENT AT WHICH THE LEGISLATOR WANTS TO REVIEW THE FILE.

10 (b) THE PRESIDING OFFICER SHALL FORWARD THE REQUEST TO THE DEPARTMENT
11 WITHIN FIVE WORKING DAYS OF THE RECEIPT OF THE REQUEST.

12 (c) THE DEPARTMENT SHALL MAKE THE NECESSARY ARRANGEMENTS FOR THE
13 LEGISLATOR TO REVIEW THE FILE AT AN OFFICE OF THE DEPARTMENT, CHOSEN BY THE
14 LEGISLATOR, WITHIN TEN WORKING DAYS.

15 (d) THE LEGISLATOR SHALL SIGN A FORM, BEFORE REVIEWING THE FILE, THAT
16 OUTLINES THE CONFIDENTIALITY LAWS GOVERNING CHILD PROTECTIVE SERVICES FILES
17 AND PENALTIES FOR FURTHER RELEASE OF THE INFORMATION.

18 5. A CITIZEN REVIEW PANEL AS PRESCRIBED BY FEDERAL LAW, A CHILD
19 FATALITY REVIEW TEAM AS PROVIDED IN TITLE 36, CHAPTER 35 AND THE OFFICE OF
20 OMBUDSMAN-CITIZEN'S AIDE.

21 I. A PERSON WHO IS NOT SPECIFICALLY AUTHORIZED BY THIS SECTION TO
22 OBTAIN CPS INFORMATION MAY PETITION A JUDGE OF THE SUPERIOR COURT TO ORDER
23 THE DEPARTMENT TO RELEASE THAT CPS INFORMATION. THE COURT SHALL BALANCE THE
24 RIGHTS OF THE PARTIES ENTITLED TO CONFIDENTIALITY PURSUANT TO THIS SECTION
25 AGAINST THE RIGHTS OF THE PARTIES SEEKING RELEASE OF THE CPS
26 INFORMATION. THE COURT MAY RELEASE OTHERWISE CONFIDENTIAL CPS INFORMATION
27 ONLY IF THE RIGHTS OF THE PARTIES SEEKING THE CPS INFORMATION AND ANY
28 BENEFITS FROM RELEASING THE CPS INFORMATION SOUGHT OUTWEIGH THE RIGHTS OF THE
29 PARTIES ENTITLED TO CONFIDENTIALITY AND ANY HARM THAT MAY RESULT FROM
30 RELEASING THE CPS INFORMATION SOUGHT.

31 J. EXCEPT AS PROVIDED IN SUBSECTION K OF THIS SECTION, BEFORE IT
32 RELEASES RECORDS UNDER THIS SECTION, THE DEPARTMENT SHALL TAKE WHATEVER
33 PRECAUTIONS IT DETERMINES ARE REASONABLY NECESSARY TO PROTECT THE IDENTITY
34 AND SAFETY OF A PERSON WHO REPORTS CHILD ABUSE OR NEGLECT AND TO PROTECT ANY
35 OTHER PERSON IF THE DEPARTMENT BELIEVES THAT DISCLOSURE OF THE CPS
36 INFORMATION WOULD BE LIKELY TO ENDANGER THE LIFE OR SAFETY OF THE
37 PERSON. THE DEPARTMENT IS NOT REQUIRED BY THIS SECTION TO DISCLOSE CPS
38 INFORMATION IF THE DISCLOSURE WOULD COMPROMISE THE INTEGRITY OF A CHILD
39 PROTECTIVE SERVICES OR CRIMINAL INVESTIGATION.

40 K. A PERSON WHO IS THE SUBJECT OF AN UNFOUNDED REPORT OR COMPLAINT
41 MADE PURSUANT TO THIS CHAPTER AND WHO BELIEVES THAT THE REPORT OR COMPLAINT
42 WAS MADE IN BAD FAITH OR WITH MALICIOUS INTENT MAY PETITION A JUDGE OF THE
43 SUPERIOR COURT TO ORDER THE DEPARTMENT TO RELEASE THE CPS INFORMATION. THE
44 PETITION SHALL SPECIFICALLY SET FORTH REASONS SUPPORTING THE PERSON'S BELIEF
45 THAT THE REPORT OR COMPLAINT WAS MADE IN BAD FAITH OR WITH MALICIOUS INTENT.
46 THE COURT SHALL REVIEW THE CPS INFORMATION IN CAMERA AND THE PERSON FILING

1 THE PETITION SHALL BE ALLOWED TO PRESENT EVIDENCE IN SUPPORT OF THE PETITION.
2 IF THE COURT DETERMINES THAT THERE IS A REASONABLE QUESTION OF FACT AS TO
3 WHETHER THE REPORT OR COMPLAINT WAS MADE IN BAD FAITH OR WITH MALICIOUS
4 INTENT AND THAT DISCLOSURE OF THE IDENTITY OF THE PERSON MAKING THE REPORT OR
5 COMPLAINT WOULD NOT BE LIKELY TO ENDANGER THE LIFE OR SAFETY OF THE PERSON
6 MAKING THE REPORT OR COMPLAINT, IT SHALL PROVIDE A COPY OF THE CPS
7 INFORMATION TO THE PERSON FILING THE PETITION AND THE ORIGINAL CPS
8 INFORMATION IS SUBJECT TO DISCOVERY IN A SUBSEQUENT CIVIL ACTION REGARDING
9 THE MAKING OF THE REPORT OR COMPLAINT.

10 L. 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 THE
13 CHILD'S PARENTS OR GUARDIANS.

14 M. THE DEPARTMENT SHALL PROVIDE CPS 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 N. IF THE DEPARTMENT RECEIVES INFORMATION THAT IS CONFIDENTIAL BY LAW,
19 THE DEPARTMENT SHALL MAINTAIN THE CONFIDENTIALITY OF THE INFORMATION AS
20 PRESCRIBED IN THE APPLICABLE LAW.

21 O. A PERSON MAY AUTHORIZE THE RELEASE OF CPS INFORMATION ABOUT THE
22 PERSON BUT MAY NOT WAIVE THE CONFIDENTIALITY OF CPS INFORMATION CONCERNING
23 ANY OTHER PERSON.

24 P. THE DEPARTMENT MAY PROVIDE A SUMMARY OF THE OUTCOME OF A CHILD
25 PROTECTIVE SERVICES INVESTIGATION TO THE PERSON WHO REPORTED THE SUSPECTED
26 CHILD ABUSE OR NEGLECT.

27 Q. THE DEPARTMENT SHALL ADOPT RULES TO FACILITATE THE ACCESSIBILITY OF
28 CPS INFORMATION.

29 R. THE DEPARTMENT MAY CHARGE A FEE FOR COPYING COSTS REQUIRED TO
30 PREPARE CPS INFORMATION FOR RELEASE PURSUANT TO THIS SECTION.

31 S. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2
32 MISDEMEANOR.

33 T. FOR THE PURPOSES OF THIS SECTION:

34 1. "CPS INFORMATION" INCLUDES ALL INFORMATION THE DEPARTMENT GATHERS
35 DURING THE COURSE OF A CHILD PROTECTIVE SERVICES INVESTIGATION CONDUCTED
36 UNDER THIS CHAPTER FROM THE TIME A FILE IS OPENED AND UNTIL IT IS
37 CLOSED. CPS INFORMATION DOES NOT INCLUDE INFORMATION THAT IS CONTAINED IN
38 CHILD WELFARE AGENCY LICENSING RECORDS.

39 2. "NEAR FATALITY" MEANS AN ACT THAT, AS CERTIFIED BY A PHYSICIAN,
40 PLACES A CHILD IN SERIOUS OR CRITICAL CONDITION.

41 Sec. 19. Section 8-808, Arizona Revised Statutes, is amended to read:

42 8-808. Parent assistance program

43 A. A parent assistance program is established in the administrative
44 office of the supreme court for the purpose of providing information to and
45 assisting parents or guardians in understanding the process of removal of a
46 child from the home. The administrative office of the supreme court shall

1 establish parent assistance offices in counties having a population of four
2 hundred thousand persons or more and shall provide twenty-four hour telephone
3 hot line access statewide.

4 B. The administrative office of the supreme court shall hire and
5 employ staff, subject to legislative appropriation, for purposes relating to
6 the functions of the parent assistance program.

7 C. The parent assistance program shall provide the following
8 information to parents or guardians:

9 1. The parents' or guardians' legal rights, including the right to
10 attend court or foster care review board hearings, **AND THE CHILD'S LEGAL**
11 **RIGHTS**.

12 2. The means for accessing personnel who can provide information on:

13 (a) The well-being of the child who is removed from the home.

14 (b) The community resources that are available.

15 3. The procedures for requesting an attorney or a temporary custody
16 hearing and the consequences of failure to make the request.

17 D. The administrative office of the supreme court shall maintain
18 current statistics on the utilization of and types of calls received by the
19 parent assistance program. The administrative office of the supreme court
20 shall make the information available to the public on request and on the
21 administrative office of the supreme court's web site.

22 E. The administrative office of the supreme court shall coordinate
23 efforts with the department of economic security to provide each parent or
24 guardian with written notice of the services offered by the parent assistance
25 program at the time initial contact is made with a family.

26 Sec. 20. Section 8-811, Arizona Revised Statutes, is amended to read:

27 **8-811. Hearing process: definitions**

28 A. The department shall notify a person who is alleged to have abused
29 or neglected a child that the department intends to substantiate the
30 allegation in the central registry pursuant to section 8-804 and of that
31 person's right:

32 1. To receive a copy of the report containing the allegation.

33 2. To a hearing before the entry into the central registry pursuant to
34 section 8-802, subsection ~~C~~ B, paragraph ~~7~~ 9, subdivision (a).

35 B. The department shall send the notice prescribed in subsection A of
36 this section by first class mail no more than fourteen days after completion
37 of the investigation.

38 C. A request for a hearing on the proposed finding must be received by
39 the department within fourteen days after receipt of the notice.

40 D. The department shall not disclose any information related to the
41 investigation of the allegation except as provided in sections 8-802, 8-807
42 and 13-3620.

43 E. If a request for a hearing is made pursuant to subsection C of this
44 section, the department shall conduct a review before the hearing. The
45 department shall provide an opportunity for the accused person to provide
46 written or verbal information to support the position that the department

1 should not substantiate the allegation. If the department determines that
2 there is no probable cause that the accused person engaged in the alleged
3 conduct, the department shall amend the information or finding in the report
4 and shall notify the person and a hearing shall not be held.

5 F. Notwithstanding section 41-1092.03, the notification prescribed in
6 subsection A of this section shall also state that if the department does not
7 amend the information or finding in the report as prescribed in subsection E
8 of this section within sixty days after it receives the request for a hearing
9 the person has a right to a hearing unless:

10 1. The person is a party in a civil, criminal or administrative
11 proceeding in which the allegations of abuse or neglect are at issue.

12 2. A court or administrative law judge has made findings as to the
13 alleged abuse or neglect.

14 G. If the department does not amend the information or finding in the
15 report as prescribed in subsection E of this section, the department shall
16 notify the office of administrative hearings of the request for a hearing no
17 later than five days after completion of the review. The department shall
18 forward all records, reports and other relevant information with the request
19 for hearing within ten days. The department shall redact the identity of the
20 reporting source before transmitting the information to the office of
21 administrative hearings.

22 H. The office of administrative hearings shall hold a hearing pursuant
23 to title 41, chapter 6, article 10, with the following exceptions:

24 1. A child who is the victim of or a witness to abuse or neglect is
25 not required to testify at the hearing.

26 2. A child's hearsay statement is admissible if the time, content and
27 circumstances of that statement are sufficiently indicative of its
28 reliability.

29 3. The identity of the reporting source of the abuse or neglect shall
30 not be disclosed without the permission of the reporting source.

31 4. The reporting source is not required to testify.

32 5. A written statement from the reporting source may be admitted if
33 the time, content and circumstances of that statement are sufficiently
34 indicative of its reliability.

35 I. On completion of the presentation of evidence, the administrative
36 law judge shall determine if probable cause exists to sustain the
37 department's finding that the accused engaged in the alleged conduct. If the
38 administrative law judge determines that probable cause does not exist to
39 sustain the department's finding, the administrative law judge shall order
40 the department to amend the information or finding in the report.

41 J. When the department is requested to verify pursuant to section
42 8-807, if the child protective services central registry contains a
43 substantiated report about a specific person, the department shall determine
44 if the report was taken after January 1, 1998. If the report was taken after
45 January 1, 1998, the department shall notify the requestor of the
46 substantiated finding. If the child protective services report was taken

1 before January 1, 1998, the department shall notify the person of the
2 person's right to request an administrative hearing. The department shall
3 not send this notification if the person was a party in a civil, criminal or
4 administrative proceeding in which the allegations of abuse or neglect were
5 at issue. The provisions of this section shall apply to the person's appeal.

6 K. The department shall provide the parent, guardian or custodian who
7 is the subject of the investigation and the person who reported the suspected
8 child abuse or neglect if that person is the child's parent, guardian or
9 custodian with a copy of the outcome of the investigation at one of the
10 following times:

11 1. If the report is unsubstantiated.

12 2. If probable cause exists that abuse or neglect has occurred but a
13 specific person is not identified as having abused or neglected the child.

14 3. After the time to request a hearing has lapsed pursuant to
15 subsection C of this section without the department receiving a request for a
16 hearing.

17 4. After a final administrative decision has been made pursuant to
18 section 41-1092.08.

19 L. For the purposes of this section:

20 1. "Amend the finding" means to change the finding from substantiated
21 to unsubstantiated.

22 2. "Amend the information" means to change information identifying the
23 accused of having abused or neglected a child.

24 Sec. 21. Section 8-816, Arizona Revised Statutes, is amended effective
25 from and after June 30, 2004, to read:

26 8-816. Family builders program; services; program termination;
27 definitions

28 A. The family builders program is established in the department of
29 economic security. The department shall implement the program through
30 collaborative partnerships between child protective services, community
31 social service agencies, family support programs and other community
32 organizations, which may include faith-based organizations, to establish a
33 ~~triage~~ system that, ~~+~~

34 ~~1. Accepts, screens and assesses reports of abuse or neglect by using~~
35 ~~protocols developed by the department to determine which reports require~~
36 ~~investigation and intensive intervention by child protective services and~~
37 ~~which reports require referral for response or services by another agency,~~
38 ~~program or project. The department may investigate any report but shall~~
39 ~~conduct an investigation if the child's situation is reported to be a high or~~
40 ~~moderate risk, appears to require immediate out-of-home placement or is~~
41 ~~related to allegations of sexual abuse by a parent, guardian or custodian.~~

42 ~~2.~~ through referral to a network of contracted neighborhood-based
43 agencies, provides a variety of community-linked family preservation and
44 support services to assist families to prevent and remedy conditions or
45 circumstances that cause child abuse or neglect.

1 ~~3. Provides further investigation and intensive intervention by child~~
2 ~~protective services of reports referred to another agency, program or project~~
3 ~~if the child is in imminent danger of abuse or neglect or if the child is at~~
4 ~~sufficient risk to require a child protective services investigation.~~

5 B. The department shall contract with neighborhood-based agencies and
6 organizations to conduct family assessments, provide case management and
7 provide the necessary services to protect the child and support the family on
8 referral from the department.

9 C. During the initial contact with a family, the provider shall:

10 1. Verbally inform the prospective program participants that child
11 protective services referred the family to the provider ~~because~~ AFTER
12 INVESTIGATION of a report of abuse or neglect.

13 2. Verbally inform the prospective program participants that they do
14 not have to accept services.

15 3. Obtain the written, informed consent of the prospective program
16 participants who choose to accept the services offered. The consent form
17 shall include a description of the services offered and the rights and
18 responsibilities of the program participants and a statement that emphasizes
19 the voluntary nature of the program.

20 D. Contracts shall require that the provider establish a continuum of
21 services for families through written agreements with community agencies and
22 organizations to provide required services to families. The provider may
23 purchase or obtain without cost the services of any agency or organization
24 that may provide resources to assist the family.

25 E. Contracts shall require that the provider initiate a thorough
26 family assessment and necessary services within forty-eight hours, excluding
27 weekends and holidays, after the provider receives the referral from the
28 department.

29 F. The department shall provide information to the provider concerning
30 the current report and may provide any information from records it deems
31 appropriate. All information received by the provider regarding the report
32 of abuse or neglect and department records is subject to the confidentiality
33 requirements of section 8-807. Information in the records of the provider
34 concerning the families served by the program is available for the purposes
35 of evaluating the program.

36 G. On receipt of a referral from child protective services, within
37 forty-eight hours the provider shall attempt to contact the family in person,
38 initiate a family assessment with the consent of the family and offer to
39 assist the family to obtain the services that are necessary to reduce or
40 eliminate the causes for the initial information being received by child
41 protective services and other identified needs of the family.

42 H. If at any time during the initial contact or during the course of
43 service delivery the provider determines that the child is in imminent danger
44 of abuse or neglect, the provider shall immediately report the case to the
45 department or the appropriate law enforcement agency, or both, for
46 appropriate action. In all cases the provider and any agency under

1 subcontract to the provider shall retain records of information on initial
2 and ongoing contact with the family and the final disposition of the case and
3 shall provide this information to the department.

4 I. A family who is offered services by the provider may refuse to
5 accept those services. The provider shall document the family's refusal of
6 services in the case record.

7 J. The provider shall conduct an assessment in the home and with the
8 family's participation shall develop an initial plan within thirty days based
9 on the family's needs. The provider shall assist the family in identifying
10 and providing appropriate services. The provider shall monitor the progress
11 made by the family based on the plan expectations and shall conduct home
12 visits to determine the safety of the child and any other children in the
13 home at the time of the visit.

14 K. The department shall require that the provider establish a local
15 advisory board composed of appropriate community representatives, including
16 representation from families in the community and local public agencies. The
17 local advisory board shall ensure that a continuum of services is provided
18 for families and shall provide oversight to the program.

19 L. The department shall identify goals, objectives and outcomes for
20 family builders programs.

21 M. If the department expands the program to new geographic areas, it
22 shall hold at least one informational meeting to inform potential providers
23 of the opportunity to bid on the contract. The department shall provide
24 adequate public notice of each meeting to potential providers in the same
25 manner as provided in section 41-2533.

26 N. ~~If a report is made pursuant to subsection A of this section, the~~
27 ~~department may direct the report to the contract provider. The department is~~
28 ~~then considered to have met the requirements of section 8-304, subsection B~~
29 ~~and section 8-802, subsection C.~~ The department shall develop performance
30 standards for the contracts, provide training to the provider or organization
31 staff involved in service delivery to these families regarding child abuse
32 and neglect and monitor the performance of the providers.

33 O. The program established by this section ends on July 1, 2010
34 pursuant to section 41-3102.

35 P. For the purposes of this section:

36 1. "Department" means the department of economic security.

37 2. "Provider" means a community social services agency, family support
38 program or community organization, including a faith-based organization, that
39 is awarded a contract by the department.

40 3. "Services" includes:

41 (a) Family assessment.

42 (b) Case management.

43 (c) Child day care.

44 (d) Housing search and relocation.

45 (e) Parenting skills training.

46 (f) Supportive intervention and guidance counseling.

- 1 (g) Transportation.
- 2 (h) Emergency services.
- 3 (i) Intensive family preservation.
- 4 (j) Parent aide services.
- 5 (k) Respite services.
- 6 (l) Shelter services with parental consent.
- 7 (m) Additional services that the department determines are necessary
- 8 to meet the needs of the families.

9 Sec. 22. Title 8, chapter 10, article 1, Arizona Revised Statutes, is
10 amended by adding sections 8-817, 8-818 and 8-819, to read:

11 8-817. Initial screening and safety assessment and
12 investigation protocols; investigations

13 A. THE DEPARTMENT SHALL DEVELOP INITIAL SCREENING AND SAFETY
14 ASSESSMENT PROTOCOLS IN CONSULTATION WITH THE ATTORNEY GENERAL AND STATEWIDE
15 WITH COUNTY ATTORNEYS, CHIEFS OF POLICE, SHERIFFS, MEDICAL EXPERTS, VICTIMS'
16 RIGHTS ADVOCATES, DOMESTIC VIOLENCE VICTIM ADVOCATES AND MANDATORY
17 REPORTERS. ANY INITIAL SCREENING AND SAFETY ASSESSMENT TOOLS SHALL BE BASED
18 ON SOUND METHODOLOGY AND SHALL ENSURE VALID AND RELIABLE RESPONSES. THE
19 DEPARTMENT SHALL ESTABLISH WRITTEN POLICIES AND PROCEDURES TO IMPLEMENT THE
20 USE OF THE INITIAL SCREENING AND SAFETY ASSESSMENT PROTOCOLS.

21 B. IN EACH COUNTY, THE COUNTY ATTORNEY, THE SHERIFF, THE CHIEF LAW
22 ENFORCEMENT OFFICER FOR EACH MUNICIPALITY IN THE COUNTY AND THE DEPARTMENT
23 SHALL DEVELOP AND IMPLEMENT PROTOCOLS FOR COOPERATION IN INVESTIGATIONS OF
24 ALLEGATIONS INVOLVING EXTREMELY SERIOUS CONDUCT. THE PROTOCOLS SHALL
25 INCLUDE:

26 1. THE PROCESS FOR NOTIFICATION OF RECEIPT OF EXTREMELY SERIOUS
27 CONDUCT ALLEGATIONS.

28 2. THE STANDARDS FOR INTERDISCIPLINARY INVESTIGATIONS OF SPECIFIC
29 TYPES OF ABUSE AND NEGLECT, INCLUDING TIMELY FORENSIC MEDICAL EVALUATIONS.

30 3. THE STANDARDS FOR INTERDISCIPLINARY INVESTIGATIONS INVOLVING NATIVE
31 AMERICAN CHILDREN IN COMPLIANCE WITH THE INDIAN CHILD WELFARE ACT.

32 4. PROCEDURES FOR SHARING INFORMATION.

33 5. PROCEDURES FOR COORDINATION OF SCREENING, RESPONSE AND
34 INVESTIGATION WITH OTHER INVOLVED PROFESSIONAL DISCIPLINES AND NOTIFICATION
35 OF CASE STATUS.

36 6. THE TRAINING REQUIRED FOR THE INVOLVED CHILD PROTECTIVE SERVICE
37 WORKERS, LAW ENFORCEMENT OFFICERS AND PROSECUTORS TO EXECUTE THE
38 INVESTIGATION PROTOCOLS, INCLUDING FORENSIC INTERVIEWING SKILLS.

39 7. THE PROCESS TO ENSURE REVIEW OF AND COMPLIANCE WITH THE
40 INVESTIGATION PROTOCOLS AND THE REPORTING OF ACTIVITY UNDER THE PROTOCOLS.

41 8. PROCEDURES FOR AN ANNUAL REPORT TO BE TRANSMITTED WITHIN FORTY-FIVE
42 DAYS AFTER THE END OF EACH FISCAL YEAR TO THE GOVERNOR, THE SPEAKER OF THE
43 HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE.

44 9. PROCEDURES FOR DISPUTE RESOLUTION.

45 C. THE DEPARTMENT, THE APPROPRIATE COUNTY ATTORNEY AND THE APPROPRIATE
46 LAW ENFORCEMENT AGENCY SHALL COOPERATE IN THE INVESTIGATION OF EVERY

1 EXTREMELY SERIOUS CONDUCT ALLEGATION IN ACCORDANCE WITH THE INVESTIGATION
2 PROTOCOLS ESTABLISHED PURSUANT TO THIS SECTION.

3 8-818. Child protective services: financial and program
4 accountability

5 A. THE DEPARTMENT, THE OFFICE OF STRATEGIC PLANNING AND BUDGETING AND
6 THE JOINT LEGISLATIVE BUDGET COMMITTEE SHALL DEVELOP A FINANCIAL AND PROGRAM
7 ACCOUNTABILITY REPORTING SYSTEM FOR CHILD PROTECTIVE SERVICES.

8 B. THE ACCOUNTABILITY REPORTING SYSTEM SHALL INCLUDE THE FOLLOWING
9 ACCOUNTABILITY FACTORS:

10 1. SUCCESS IN MEETING TRAINING REQUIREMENTS.

11 2. CASELOADS FOR CHILD PROTECTIVE SERVICES WORKERS.

12 3. THE NUMBER OF NEW CASES, CASES THAT REMAIN OPEN AND CASES THAT HAVE
13 BEEN CLOSED.

14 4. THE RATIO OF CHILD PROTECTIVE SERVICES WORKERS TO IMMEDIATE
15 SUPERVISORS.

16 5. EMPLOYEE TURNOVER, INCLUDING A BREAKDOWN OF EMPLOYEES WHO REMAIN
17 WITH THE DEPARTMENT AND EMPLOYEES WHO LEAVE THE DEPARTMENT.

18 6. THE SOURCE AND USE OF FEDERAL MONIES IN CHILD PROTECTIVE SERVICES.

19 7. THE SOURCE AND USE OF STATE MONIES IN CHILD PROTECTIVE SERVICES.

20 8. ANY ADDITIONAL FACTOR DEEMED NECESSARY BY THE DEPARTMENT, OFFICE
21 AND COMMITTEE.

22 C. THE DEPARTMENT SHALL ISSUE A FINANCIAL AND PROGRAM ACCOUNTABILITY
23 REPORT TO THE GOVERNOR AND THE CHAIRPERSONS OF THE HOUSE OF REPRESENTATIVES
24 APPROPRIATIONS AND HUMAN SERVICES COMMITTEES AND THE SENATE APPROPRIATIONS
25 AND FAMILY SERVICES COMMITTEES, OR THEIR SUCCESSOR COMMITTEES, ON OR BEFORE
26 FEBRUARY 1 AND AUGUST 1 OF EACH YEAR.

27 D. THE DEPARTMENT SHALL ISSUE THE FIRST FINANCIAL AND PROGRAM
28 ACCOUNTABILITY REPORT ON OR BEFORE AUGUST 1, 2004. IN DEVELOPING THE
29 FINANCIAL AND PROGRAM ACCOUNTABILITY REPORTING SYSTEM, THE DEPARTMENT, THE
30 OFFICE OF STRATEGIC PLANNING AND BUDGETING AND THE JOINT LEGISLATIVE BUDGET
31 COMMITTEE SHALL REVIEW THE CURRENT REPORTING REQUIREMENTS OF THE DEPARTMENT
32 TO ELIMINATE DUPLICATION OF REPORTING REQUIREMENTS AND TO COORDINATE
33 REPORTING REQUIREMENTS. THE DEPARTMENT, THE OFFICE OF STRATEGIC PLANNING AND
34 BUDGETING AND THE JOINT LEGISLATIVE BUDGET COMMITTEE SHALL ALSO REVIEW THE
35 CURRENT INFORMATION PROCESSING CAPABILITIES TO REPORT TIMELY AND ACCURATE
36 INFORMATION. ON OR BEFORE JULY 1, 2004, THE DEPARTMENT SHALL REPORT TO THE
37 GOVERNOR AND THE CHAIRPERSONS OF THE HOUSE OF REPRESENTATIVES APPROPRIATIONS
38 AND HUMAN SERVICES COMMITTEES AND THE SENATE APPROPRIATIONS AND FAMILY
39 SERVICES COMMITTEES THE MEASURES TO BE USED TO REPORT THE ACCOUNTABILITY
40 FACTORS, INCLUDING A DEFINITION OF AND THE METHODS FOR DETERMINING THESE
41 MEASURES.

42 8-819. Determination of neglect

43 IN DETERMINING IF A CHILD IS NEGLECTED, CONSIDERATION SHALL BE GIVEN
44 TO:

45 1. THE DRUG OR ALCOHOL ABUSE OF THE CHILD'S PARENT, GUARDIAN OR
46 CUSTODIAN.

1 2. THE USE BY THE MOTHER OF A DANGEROUS DRUG, A NARCOTIC DRUG OR
2 ALCOHOL DURING PREGNANCY IF THE CHILD, AT BIRTH OR WITHIN A YEAR AFTER BIRTH,
3 IS DEMONSTRABLY ADVERSELY AFFECTED BY THIS USE. FOR THE PURPOSES OF THIS
4 PARAGRAPH, "DANGEROUS DRUG" AND "NARCOTIC DRUG" HAVE THE SAME MEANING
5 PRESCRIBED IN SECTION 13-3401.

6 Sec. 23. Section 8-821, Arizona Revised Statutes, is amended to read:
7 8-821. Taking into temporary custody; medical examination;
8 placement; interference; classification

9 A. A child shall be taken into temporary custody in proceedings to
10 declare a child a temporary ward of the court to protect the child, pursuant
11 to an order of the juvenile court on a petition by an interested person, a
12 peace officer or a child protective services worker under oath that
13 reasonable grounds exist to believe that temporary custody is clearly
14 necessary to protect the child from suffering abuse or neglect. IF A CHILD
15 IS TAKEN INTO TEMPORARY CUSTODY PURSUANT TO THIS SECTION, THE CHILD'S SIBLING
16 SHALL ALSO BE TAKEN INTO TEMPORARY CUSTODY ONLY IF REASONABLE GROUNDS
17 INDEPENDENTLY EXIST TO BELIEVE THAT TEMPORARY CUSTODY IS CLEARLY NECESSARY TO
18 PROTECT THE CHILD FROM SUFFERING ABUSE OR NEGLECT.

19 B. A child may be taken into temporary custody by a peace officer or a
20 child protective services worker if temporary custody is clearly necessary to
21 protect the child because PROBABLE CAUSE EXISTS TO BELIEVE THAT the child is
22 either:

23 1. ~~Suffering~~ A VICTIM or will imminently ~~suffer~~ BECOME A VICTIM OF
24 abuse or neglect.

25 2. Suffering serious physical or emotional ~~damage~~ INJURY that can only
26 be diagnosed by a medical doctor or psychologist.

27 3. PHYSICALLY INJURED AS A RESULT OF LIVING ON PREMISES WHERE
28 DANGEROUS DRUGS OR NARCOTIC DRUGS ARE BEING MANUFACTURED. FOR THE PURPOSES
29 OF THIS PARAGRAPH, "DANGEROUS DRUGS" AND "NARCOTIC DRUGS" HAVE THE SAME
30 MEANING PRESCRIBED IN SECTION 13-3401.

31 C. In determining if a child should be taken into temporary custody,
32 the interested person, peace officer or child protective services worker may
33 take into consideration as a mitigating factor the participation of the
34 parent or guardian in the healthy families program established by section
35 8-701.

36 D. In determining if a child should be taken into temporary custody,
37 the interested person, peace officer or child protective services worker
38 shall take into consideration:

39 1. As a paramount concern the child's health and safety and shall
40 consider as a mitigating factor the availability of reasonable services to
41 the parent or guardian to prevent or eliminate the need for removal of the
42 child and the effort of the parent or guardian to obtain and participate in
43 these services.

44 2. WHETHER THE PARENT IS WILLING TO PARTICIPATE IN SERVICES PROVIDED
45 PURSUANT TO SECTION 8-830.

1 E. A person who takes a child into custody pursuant to subsection B,
2 paragraph 2 of this section shall immediately have the child examined by a
3 medical doctor or psychologist. After the examination the person shall
4 release the child to the custody of the parent or guardian of the child
5 unless the examination reveals abuse or neglect. Temporary custody of a
6 child taken into custody pursuant to subsection B, paragraph 2 of this
7 section shall not exceed twelve hours.

8 F. A child WHO IS taken into temporary custody pursuant to this
9 article shall not be detained in a police station, jail or lockup where
10 adults charged with or convicted of a crime are detained.

11 G. A child shall not remain in temporary custody for more than
12 seventy-two hours excluding Saturdays, Sundays and holidays unless a
13 dependency petition is filed.

14 H. A person who knowingly interferes with the taking of a child into
15 temporary custody under this section is guilty of a class 2 misdemeanor.

16 Sec. 24. Section 8-822, Arizona Revised Statutes, is amended to read:

17 8-822. Removal of child from home; review; review teams

18 The department ~~of economic security~~ shall adopt rules and establish
19 clear policies and procedures, where appropriate, to:

20 1. Determine the circumstances under which it is appropriate to remove
21 a child from the custody of the child's parents, guardian or custodian.

22 2. Ensure the immediate notification ~~and timely interview~~ of the
23 child's parents, guardian or custodian regarding the removal of the child
24 from home, school or child care AND THE TIMELY INTERVIEW OF THE CHILD AND THE
25 CHILD'S PARENT, GUARDIAN OR CUSTODIAN.

26 3. Review each removal of a child ~~which~~ THAT is expected to result in
27 a dependency petition to assess options other than continued out-of-home
28 placement including in-home services to the family. Such reviews shall be
29 conducted before the dependency petition is filed. The review team shall
30 consist of a protective services worker, a worker's supervisor and ~~a member~~
31 TWO MEMBERS of the local foster care review board. If the child has a medical
32 need or a chronic illness, the review team shall include the child's
33 physician. If all reasonable efforts to reach the child's physician have
34 been made and the physician is not available, the team shall include a
35 physician who is licensed pursuant to title 32, chapter 13 or 17 and who is
36 familiar with children's health care. A CHILD SHALL NOT BE REMOVED UNLESS A
37 MAJORITY OF THE MEMBERS OF THE REVIEW TEAM AGREE THAT REMOVAL IS
38 NECESSARY. IF A MAJORITY OF THE MEMBERS OF THE REVIEW TEAM DO NOT AGREE THAT
39 REMOVAL IS NECESSARY, THE CHILD SHALL NOT BE REMOVED OR, IF THE CHILD HAS
40 ALREADY BEEN REMOVED, THE CHILD SHALL BE RETURNED TO THE HOME.

41 Sec. 25. Section 8-823, Arizona Revised Statutes, is amended to read:

42 8-823. Notice of taking into temporary custody

43 A. If a child is taken into temporary custody pursuant to this
44 article, the interested person, peace officer or child protective services
45 worker taking the child into custody shall provide written notice within six
46 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 and
4 notice cannot be provided within six hours, then written notice shall be
5 provided within twenty-four hours.
6 3. The residence of the parent or guardian is not ascertainable, then
7 reasonable efforts shall be made to locate and notify the parent or guardian
8 of the child as soon as possible.
9 B. The written notice shall contain a signature line for the parent or
10 guardian to acknowledge receipt of ~~the notice and~~ **BOTH WRITTEN AND VERBAL**
11 **NOTICES. THE WRITTEN AND VERBAL NOTICES SHALL CONTAIN** the name of the person
12 and 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 notice
15 shall list the specific factors that caused the determination of imminent
16 danger.
17 2. Services that are available to the parent or guardian, including a
18 statement of parental rights and information on how to contact the
19 ombudsman-citizen's aide 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 petition
27 is filed and a statement that a child in temporary custody for examination
28 pursuant to section 8-821, subsection B, paragraph 2 must be returned within
29 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 information
32 prescribed in subdivision (b) is not available, a statement that if a
33 dependency petition is filed, the parent or guardian will be provided a
34 written notice no later than twenty-four hours after the petition is filed
35 that contains the information prescribed in subdivision (b).
36 (b) In all other cases, the date, time and place of the preliminary
37 protective hearing to be held pursuant to section 8-824 and the requirements
38 of subsection D of this section.
39 8. A statement of the right of the parent or guardian to counsel and
40 that counsel will be appointed pursuant to section 8-221 through the juvenile
41 court if a dependency petition is filed and the person is indigent.
42 9. Information regarding the ability of the person about whom the
43 report was made to provide a verbal, **TELEPHONIC** or written response to the
44 allegations. A verbal response shall be included in the written report of the
45 investigation. A written response, including any documentation, shall be

1 included in the case file. THE RESPONSE SHALL BE PROVIDED TO THE REMOVAL
2 REVIEW TEAM IF THE RESPONSE IS MADE BEFORE THE TEAM CONSIDERS THE REMOVAL.

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

5 C. The protective services worker shall provide the parent or guardian
6 with the notice even if the parent or guardian refuses to sign the
7 acknowledgment.

8 D. Immediately before the time of the preliminary protective hearing,
9 the persons described in section 8-824, subsection B shall meet and attempt
10 to reach an agreement about placement of the child, services to be provided
11 to the child, parent or guardian and visitation of the child. The parties
12 shall meet with their counsel, if any, before this meeting. Consideration
13 shall be given to the availability of reasonable services to the parent or
14 guardian and the child's health and safety shall be a paramount concern. The
15 persons described in section 8-824, subsection C may attend the meeting to
16 reach an agreement.

17 E. If a dependency petition is filed by the department, the child
18 protective services worker is responsible for delivering the notice of the
19 preliminary protective hearing prescribed in subsection B, paragraph 7 of
20 this section to the parent or guardian. In all other cases, the person who
21 files the dependency petition is responsible for delivery of this notice to
22 the parent or guardian. If the location of the parent or guardian is
23 unknown, the person who is responsible for serving this notice shall make
24 reasonable efforts to locate and notify the parent or guardian.

25 Sec. 26. Section 8-829, Arizona Revised Statutes, is amended to read:

26 8-829. Judicial determinations; timing; documentation

27 A. If a child has been removed from the child's home, the court shall
28 make **PROTECTING THE CHILD FROM ABUSE OR NEGLECT THE FIRST PRIORITY AND SHALL**
29 **MAKE** the following determinations within the following time periods:

30 1. **IN THE COURT'S FIRST ORDER THAT SANCTIONS THE REMOVAL**, whether
31 continuation of the child's residence in the home would be contrary to the
32 welfare of the child ~~shall be made in the court's first order that sanctions~~
33 ~~the removal~~. This order may be the temporary order that the court issues on
34 the filing of a dependency petition.

35 2. **WITHIN SIXTY DAYS AFTER THE CHILD IS REMOVED FROM THE CHILD'S HOME**,
36 whether reasonable efforts have been made to prevent removal of the child or
37 **WHETHER** it was reasonable to make no efforts to prevent removal of the child
38 ~~shall be made within sixty days after the child is removed from the child's~~
39 ~~home~~.

40 3. **WITHIN TWELVE MONTHS AFTER THE CHILD IS REMOVED FROM THE CHILD'S**
41 **HOME AND ONCE EVERY TWELVE MONTHS THEREAFTER**, whether reasonable efforts have
42 been made to finalize the existing permanency plan ~~shall be made within~~
43 ~~twelve months after the child is removed from the child's home and once every~~
44 ~~twelve months after that determination~~.

45 B. The court shall make each determination described in subsection A
46 on a case-by-case basis and shall set forth in its written order the specific

1 factual basis for each determination. In making its determination, the court
2 shall consider documentation THAT IS reasonably available at the time of the
3 determination.

4 Sec. 27. Title 8, chapter 10, article 2, Arizona Revised Statutes, is
5 amended by adding section 8-830, to read:

6 8-830. Residential drug treatment center; services; program
7 termination; definitions

8 A. THE DEPARTMENT SHALL CONTRACT WITH A PROVIDER TO CONDUCT FAMILY
9 ASSESSMENTS, PROVIDE CASE MANAGEMENT AND PROVIDE THE NECESSARY SERVICES,
10 INCLUDING RESIDENTIAL DRUG TREATMENT SERVICES, TO PROTECT THE CHILD AND
11 SUPPORT THE FAMILY ON REFERRAL FROM THE DEPARTMENT PURSUANT TO SECTION 8-821.

12 B. THE CONTRACT SHALL REQUIRE THAT THE PROVIDER ESTABLISH A CONTINUUM
13 OF SERVICES FOR FAMILIES THROUGH WRITTEN AGREEMENTS WITH COMMUNITY AGENCIES
14 AND ORGANIZATIONS TO PROVIDE REQUIRED SERVICES TO FAMILIES. THE PROVIDER MAY
15 PURCHASE OR OBTAIN WITHOUT COST THE SERVICES OF ANY AGENCY OR ORGANIZATION
16 THAT MAY PROVIDE RESOURCES TO ASSIST THE FAMILY.

17 C. THE CONTRACT SHALL REQUIRE THAT THE PROVIDER INITIATE A THOROUGH
18 FAMILY ASSESSMENT AND NECESSARY SERVICES AS SOON AS PRACTICABLE AFTER THE
19 PROVIDER RECEIVES THE REFERRAL FROM THE DEPARTMENT.

20 D. THE DEPARTMENT SHALL PROVIDE INFORMATION TO THE PROVIDER CONCERNING
21 THE CURRENT REPORT AND MAY PROVIDE ANY INFORMATION FROM RECORDS IT DEEMS
22 APPROPRIATE. ALL INFORMATION RECEIVED BY THE PROVIDER REGARDING THE REPORT
23 OF ABUSE OR NEGLECT AND DEPARTMENT RECORDS IS SUBJECT TO THE CONFIDENTIALITY
24 REQUIREMENTS OF SECTION 8-807. INFORMATION IN THE RECORDS OF THE PROVIDER
25 CONCERNING THE FAMILIES SERVED BY THE PROGRAM IS AVAILABLE FOR THE PURPOSES
26 OF EVALUATING THE PROGRAM.

27 E. IF AT ANY TIME DURING THE COURSE OF SERVICE DELIVERY THE PROVIDER
28 DETERMINES THAT THE CHILD IS IN IMMINENT DANGER OF ABUSE OR NEGLECT, THE
29 PROVIDER SHALL IMMEDIATELY REPORT THE CASE TO THE DEPARTMENT OR THE
30 APPROPRIATE LAW ENFORCEMENT AGENCY, OR BOTH, FOR APPROPRIATE ACTION. IN ALL
31 CASES THE PROVIDER AND ANY AGENCY UNDER SUBCONTRACT TO THE PROVIDER SHALL
32 RETAIN RECORDS OF INFORMATION ON INITIAL AND ONGOING CONTACT WITH THE FAMILY
33 AND THE FINAL DISPOSITION OF THE CASE AND SHALL PROVIDE THIS INFORMATION TO
34 THE DEPARTMENT.

35 F. THE DEPARTMENT SHALL REQUIRE THAT THE PROVIDER ESTABLISH A LOCAL
36 ADVISORY BOARD COMPOSED OF APPROPRIATE COMMUNITY REPRESENTATIVES, INCLUDING
37 REPRESENTATION FROM FAMILIES IN THE COMMUNITY AND LOCAL PUBLIC AGENCIES. THE
38 LOCAL ADVISORY BOARD SHALL ENSURE THAT A CONTINUUM OF SERVICES IS PROVIDED
39 FOR FAMILIES AND SHALL PROVIDE OVERSIGHT TO THE PROGRAM.

40 G. THE DEPARTMENT SHALL DEVELOP PERFORMANCE STANDARDS FOR THE
41 CONTRACTS, PROVIDE TRAINING TO THE PROVIDER OR ORGANIZATION STAFF INVOLVED IN
42 SERVICE DELIVERY TO THESE FAMILIES REGARDING CHILD ABUSE AND NEGLECT AND
43 MONITOR THE PERFORMANCE OF THE PROVIDERS.

44 H. THE CONTRACT ENTERED INTO PURSUANT TO THIS SECTION SHALL BE FOR A
45 TERM OF TEN YEARS. THE PROGRAM ESTABLISHED BY THIS SECTION ENDS ON JULY 1,
46 2014 PURSUANT TO SECTION 41-3102.

- 1 I. FOR THE PURPOSES OF THIS SECTION:
2 1. "DEPARTMENT" MEANS THE DEPARTMENT OF ECONOMIC SECURITY.
3 2. "PROVIDER" MEANS A COMMUNITY OR FAITH-BASED PROVIDER THAT IS
4 AWARDED A CONTRACT BY THE DEPARTMENT.
5 3. "SERVICES" INCLUDES:
6 (a) FAMILY ASSESSMENT.
7 (b) CASE MANAGEMENT.
8 (c) CHILD DAY CARE.
9 (d) HOUSING SEARCH AND RELOCATION.
10 (e) PARENTING SKILLS TRAINING.
11 (f) SUPPORTIVE INTERVENTION AND GUIDANCE COUNSELING.
12 (g) TRANSPORTATION.
13 (h) EMERGENCY SERVICES.
14 (i) INTENSIVE FAMILY PRESERVATION.
15 (j) PARENT AIDE SERVICES.
16 (k) RESIDENTIAL DRUG TREATMENT SERVICES.
17 (l) ADDITIONAL SERVICES THAT THE DEPARTMENT DETERMINES ARE NECESSARY
18 TO MEET THE NEEDS OF THE FAMILIES.

19 Sec. 28. Section 8-842, Arizona Revised Statutes, is amended to read:
20 8-842. Initial dependency and dependency adjudication hearings;
21 deadlines

22 A. Except as provided in section 8-826, the court shall set the
23 initial dependency hearing within twenty-one days after the petition is
24 filed. If service by publication is required, the court may set an initial
25 dependency hearing within a time period to allow for publication pursuant to
26 the rules of procedure for the juvenile court.

27 B. The court may continue the initial dependency hearing for good
28 cause, but, **UNLESS THE COURT HAS ORDERED IN-HOME INTERVENTION**, the dependency
29 adjudication hearing shall be completed within ninety days after service of
30 the dependency petition. The time limit for completing the dependency
31 adjudication hearing may be extended for up to thirty days if the court finds
32 good cause or in extraordinary cases as prescribed by the supreme court by
33 rule.

34 Sec. 29. Section 8-843, Arizona Revised Statutes, is amended to read:
35 8-843. Initial dependency hearing; rights

36 A. **AT ANY DEPENDENCY HEARING, THE COURT'S PRIMARY CONSIDERATION SHALL**
37 **BE THE PROTECTION OF A CHILD FROM ABUSE OR NEGLECT.**

38 ~~A.~~ B. At the initial dependency hearing, the court shall ensure that
39 the parent or guardian has been advised of the following rights:

40 1. The right to counsel, including appointed counsel if the parent or
41 guardian is indigent.

42 2. The right to trial by the court on the allegations in the petition.

43 3. The right to cross-examine all witnesses that are called to testify
44 against the parent or guardian.

45 4. The right to use the process of the court to compel the attendance
46 of witnesses.

1 ~~B.~~ C. If the parent or guardian admits or does not contest the
2 allegations in the petition, the court shall determine that the parent or
3 guardian understands the rights described in subsection A of this section and
4 that the parent or guardian knowingly, intelligently and voluntarily waives
5 these rights.

6 ~~C.~~ D. If the parent or guardian denies the allegations in the
7 petition, the court shall set the settlement conference, pretrial conference
8 or mediation prescribed in section 8-844.

9 ~~D.~~ E. The court shall also determine if reasonable efforts were made
10 to prevent or eliminate the need for removal of a child from the child's home
11 and if services are available that would eliminate the need for continued
12 removal. If the child is:

13 1. In the custody of the department, the court shall order the
14 department to make reasonable efforts to provide services to the child and
15 parent to facilitate the reunification of the family, except as provided in
16 section 8-846.

17 2. Not in the custody of the department and the department is not a
18 party, the court may direct the parties to participate in reasonable services
19 that will facilitate reunification of the family or another permanent plan
20 for the child. The court shall not require the department to provide
21 services pursuant to this paragraph.

22 F. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE COURT MAY
23 STAY THE PROCEEDINGS AND ORDER IN-HOME INTERVENTION AS PROVIDED IN ARTICLE 7
24 OF THIS CHAPTER.

25 Sec. 30. Section 8-846, Arizona Revised Statutes, is amended to read:

26 8-846. Services provided to the child and family

27 A. Except as provided in subsection B of this section, if the child
28 has been removed from the home, the court shall order the department to make
29 reasonable efforts to provide services to the child and the child's parent ~~to~~
30 ~~facilitate reunification of the family.~~

31 B. THE COURT SHALL CONSIDER THE FOLLOWING FACTORS AND reunification
32 services are not required to be provided if the court finds by clear and
33 convincing evidence that:

34 1. One or more of the following aggravating circumstances exist:

35 (a) A party to the action provides a verified affidavit that states
36 that a reasonably diligent search has failed to identify and locate the
37 parent within three months after the filing of the dependency petition or the
38 parent has expressed no interest in reunification with the child for at least
39 three months after the filing of the dependency petition.

40 (b) The parent or guardian is suffering from a mental illness or
41 mental deficiency of such magnitude that it renders the parent or guardian
42 incapable of benefitting from the reunification services. This finding shall
43 be based on competent evidence from a psychologist or physician that
44 establishes that, even with the provision of reunification services, the
45 parent or guardian is unlikely to be capable of adequately caring for the

1 child within twelve months after the date of the child's removal from the
2 home.

3 (c) The child previously has been removed and adjudicated dependent
4 due to physical or sexual abuse. After the adjudication the child was
5 returned to the custody of the parent or guardian and then subsequently
6 removed within eighteen months due to additional physical or sexual abuse.

7 (d) A child ~~has suffered~~ IS THE VICTIM OF serious physical or
8 emotional injury ~~as defined in section 8-531~~ by the parent or guardian or by
9 any person known by the parent or guardian, if the parent or guardian knew or
10 reasonably should have known that the person was abusing the child.

11 (e) The parent's rights to another child have been terminated, the
12 parent has not successfully addressed the issues that led to the termination
13 and the parent is unable to discharge parental responsibilities.

14 (f) After a finding that a child is dependent, all of the following
15 are true:

16 (i) A child has been removed from the parent or guardian on at least
17 two previous occasions.

18 (ii) Reunification services were offered or provided to the parent or
19 guardian after the removal.

20 (iii) The parent or guardian is unable to discharge parental
21 responsibilities.

22 2. The parent or guardian of a child has been convicted of murder or
23 manslaughter of a child, or of sexual abuse, sexual assault of a child,
24 sexual conduct with a minor, molestation of a child, commercial sexual
25 exploitation of a minor, sexual exploitation of a minor, or luring a minor
26 for sexual exploitation.

27 3. The parent or guardian of a child has been convicted of aiding or
28 abetting or attempting, conspiring or soliciting to commit any of the crimes
29 listed in ~~subsection B,~~ paragraph 2 of this ~~section~~ SUBSECTION.

30 Sec. 31. Section 8-847, Arizona Revised Statutes, is amended to read:
31 8-847. Periodic review hearings

32 A. After the disposition hearing, the court shall hold periodic review
33 hearings at least once every six months as required by federal law.

34 B. At a proceeding to review the disposition orders of the court, the
35 court shall provide the following persons notice of the review and the right
36 to participate in the proceeding:

37 1. The authorized agency charged with the child's care and custody.

38 2. Any foster parents in whose home the child resided within the last
39 six months or resides at present, except for those foster parents who
40 maintain a receiving foster home WHERE THE CHILD HAS RESIDED FOR THIRTY DAYS
41 OR LESS. The petitioner shall provide the court with the names and addresses
42 of all foster parents who are entitled to notice pursuant to statute.

43 3. A SHELTER CARE FACILITY OR RECEIVING FOSTER HOME WHERE THE CHILD
44 RESIDES OR HAS RESIDED WITHIN THE LAST SIX MONTHS FOR MORE THAN THIRTY DAYS.
45 THE PETITIONER SHALL PROVIDE THE COURT WITH THE NAMES AND ADDRESSES OF ALL

1 SHELTER CARE FACILITIES AND RECEIVING FOSTER HOMES THAT ARE ENTITLED TO
2 NOTICE PURSUANT TO THIS PARAGRAPH.

3 ~~3-~~ 4. The child's parent or guardian unless the parental rights of
4 that parent or guardian have been terminated by court action or unless the
5 parent has relinquished rights to the child to an agency or has consented to
6 the adoption of the child as provided in section 8-107.

7 ~~4-~~ 5. The child, if twelve years of age or older.

8 ~~5-~~ 6. The child's relative, as defined in section 8-501, if that
9 relative files a written notice of right of participation with the court.

10 ~~6-~~ 7. A person permitted by the court to intervene as a party in the
11 dependency proceeding.

12 ~~7-~~ 8. A physical custodian of the child within the preceding six
13 months.

14 ~~8-~~ 9. Any person who has filed a petition to adopt or who has
15 physical custody pursuant to a court order in a foster-adoptive placement.

16 ~~9-~~ 10. Any other person as the court may direct.

17 C. At any periodic review hearing, the court shall consider the health
18 and safety of the child as a paramount concern.

19 Sec. 32. Section 8-863, Arizona Revised Statutes, is amended to read:

20 ~~8-863.~~ Hearing to terminate parental rights; notice; grounds

21 A. At least ten days before the initial hearing on the termination of
22 parental rights pursuant to this article, the party who is responsible for
23 filing a motion pursuant to section 8-862, subsection D shall serve the
24 motion on all parties as prescribed in rule 5(c) of the Arizona rules of
25 civil procedure, including any person who has filed a petition to adopt or
26 who has physical custody pursuant to a court order in a foster-adoptive
27 placement.

28 B. The court **OR JURY** may terminate the parental rights of a parent if
29 the court **OR JURY** finds by clear and convincing evidence one or more of the
30 grounds prescribed in section 8-533.

31 C. If a parent does not appear at the hearing, the court, after
32 determining that the parent has been served as provided in subsection A of
33 this section, may find that the parent has waived the parent's legal rights
34 and is deemed to have admitted the allegations of the petition by the failure
35 to appear. The court may terminate the parent-child relationship as to a
36 parent who does not appear based on the record and evidence presented as
37 provided in rules prescribed by the supreme court.

38 D. Sections 8-538 and 8-539 apply to orders of termination issued
39 pursuant to this section.

40 Sec. 33. Section 8-863, Arizona Revised Statutes, as amended by this
41 act, is amended effective from and after December 31, 2006, to read:

42 ~~8-863.~~ Hearing to terminate parental rights; notice; grounds

43 A. At least ten days before the initial hearing on the termination of
44 parental rights pursuant to this article, the party who is responsible for
45 filing a motion pursuant to section 8-862, subsection D shall serve the
46 motion on all parties as prescribed in rule 5(c) of the Arizona rules of

1 civil procedure, including any person who has filed a petition to adopt or
2 who has physical custody pursuant to a court order in a foster-adoptive
3 placement.

4 B. The court ~~or jury~~ may terminate the parental rights of a parent if
5 the court ~~or jury~~ finds by clear and convincing evidence one or more of the
6 grounds prescribed in section 8-533.

7 C. If a parent does not appear at the hearing, the court, after
8 determining that the parent has been served as provided in subsection A of
9 this section, may find that the parent has waived the parent's legal rights
10 and is deemed to have admitted the allegations of the petition by the failure
11 to appear. The court may terminate the parent-child relationship as to a
12 parent who does not appear based on the record and evidence presented as
13 provided in rules prescribed by the supreme court.

14 D. Sections 8-538 and 8-539 apply to orders of termination issued
15 pursuant to this section.

16 Sec. 34. Title 8, chapter 10, Arizona Revised Statutes, is amended by
17 adding article 7, to read:

18 ARTICLE 7. IN-HOME INTERVENTION

19 8-891. In-home intervention

20 A. AFTER THE FILING OF A DEPENDENCY PETITION, THE COURT MAY ORDER
21 IN-HOME INTERVENTION IF ALL OF THE FOLLOWING ARE TRUE:

22 1. THE CHILD HAS NOT BEEN REMOVED PURSUANT TO ARTICLE 2 OF THIS
23 CHAPTER.

24 2. IN-HOME INTERVENTION APPEARS LIKELY TO RESOLVE THE RISK ISSUES
25 DESCRIBED IN PARAGRAPH 4.

26 3. THE PARENT, GUARDIAN OR CUSTODIAN AGREES TO A CASE PLAN AND
27 PARTICIPATION IN SERVICES.

28 4. ONE OF THE FOLLOWING CONDITIONS EXIST:

29 (a) THE CHILD IS AT RISK OF HARM DUE TO THE INABILITY OR UNWILLINGNESS
30 OF THE PARENT, GUARDIAN OR CUSTODIAN TO PROVIDE FOOD, CLOTHING, SHELTER OR
31 MEDICAL CARE.

32 (b) THE PARENT, GUARDIAN OR CUSTODIAN IS UNABLE TO PROVIDE PROPER
33 CARE, CONTROL AND SUPERVISION OF THE CHILD.

34 B. THE IN-HOME INTERVENTION ORDER MAY INCLUDE A TRAINING OR TREATMENT
35 PLAN FOR THE PARENT, GUARDIAN OR CUSTODIAN AND THE CHILD.

36 C. THE IN-HOME INTERVENTION SHALL INCLUDE A SPECIFIC TIME FOR
37 COMPLETION OF THE IN-HOME INTERVENTION, WHICH SHALL NOT EXCEED ONE YEAR
38 WITHOUT REVIEW AND APPROVAL BY THE COURT. THE COURT SHALL DISMISS THE
39 DEPENDENCY PETITION IF THE SPECIFIC TIME FOR COMPLETION OF THE IN-HOME
40 INTERVENTION HAS EXPIRED WITHOUT BEING EXTENDED BY THE COURT AND A DEPENDENCY
41 ADJUDICATION HEARING HAS NOT BEEN SET AS PROVIDED IN SECTION 8-892.

42 8-892. Compliance

43 IF THE PARENT, GUARDIAN OR CUSTODIAN VIOLATES THE IN-HOME INTERVENTION
44 ORDER, THE COURT MAY TAKE WHATEVER STEPS IT DEEMS NECESSARY TO OBTAIN
45 COMPLIANCE OR MAY RESCIND THE ORDER AND SET THE DEPENDENCY ADJUDICATION
46 HEARING AS PROVIDED IN SECTIONS 8-842 AND 8-843.

- 1 1. The agreement or lack of an agreement by the parents regarding
2 joint custody.
- 3 2. Whether a parent's lack of agreement is unreasonable or is
4 influenced by an issue not related to the best interests of the child.
- 5 3. The past, present and future abilities of the parents to cooperate
6 in decision-making about the child to the extent required by the order of
7 joint custody.
- 8 4. Whether the joint custody arrangement is logistically possible.
- 9 E. Notwithstanding subsection N of this section, joint custody shall
10 not be awarded if the court makes a finding of the existence of significant
11 domestic violence pursuant to section 13-3601 or if the court finds by a
12 preponderance of the evidence that there has been a significant history of
13 domestic violence.
- 14 F. Before an award is made granting joint custody, the parents shall
15 submit a proposed parenting plan that includes at least the following:
- 16 1. Each parent's rights and responsibilities for the personal care of
17 the child and for decisions in areas such as education, health care and
18 religious training.
- 19 2. A schedule of the physical residence of the child, including
20 holidays and school vacations.
- 21 3. A procedure by which proposed changes, disputes and alleged
22 breaches may be mediated or resolved, which may include the use of
23 conciliation services or private counseling.
- 24 4. A procedure for periodic review of the plan's terms by the parents.
- 25 5. A statement that the parties understand that joint custody does not
26 necessarily mean equal parenting time.
- 27 G. If the parents are unable to agree on any element to be included in
28 a parenting plan, the court shall determine that element. The court may
29 determine other factors that are necessary to promote and protect the
30 emotional and physical health of the child.
- 31 H. Unless otherwise provided by court order or law, on reasonable
32 request both parents are entitled to have equal access to documents and other
33 information concerning the child's education and physical, mental, moral and
34 emotional health including medical, school, police, court and other records
35 directly from the custodian of the records or from the other parent. A
36 person who does not comply with a reasonable request shall reimburse the
37 requesting parent for court costs and attorney fees incurred by that parent
38 to force compliance with this subsection. A parent who attempts to restrict
39 the release of documents or information by the custodian under this
40 subsection without a prior court order is subject to appropriate legal
41 sanctions.
- 42 I. The court may specify one parent as the primary caretaker of the
43 child and one home as the primary home of the child for the purposes of
44 defining eligibility for public assistance. This finding does not diminish
45 the rights of either parent and does not create a presumption for or against
46 either parent in a proceeding for the modification of a custody order.

1 J. In a contested custody case, the court shall make specific findings
2 on the record about all relevant factors and the reasons for which the
3 decision is in the best interests of the child.

4 K. If the court determines that a parent has been convicted of any
5 drug offense under title 13, chapter 34 or any violation of section 28-1381,
6 28-1382 or 28-1383 within twelve months before the petition or the request
7 for custody is filed, there is a rebuttable presumption that sole or joint
8 custody by that parent is not in the child's best interests. In making this
9 determination the court shall state its:

10 1. Findings of fact that support its determination that the parent was
11 convicted of the offense.

12 2. Findings that the custody or parenting time arrangement ordered by
13 the court appropriately protects the child.

14 L. To determine if the person has rebutted the presumption established
15 under subsection K of this section, at a minimum the court shall consider the
16 following evidence:

17 1. The absence of any conviction of any other drug offense during the
18 previous five years.

19 2. Results of random drug testing for a six month period that indicate
20 that the person is not using drugs as proscribed by title 13, chapter 34.

21 M. The court shall consider evidence of domestic violence as being
22 contrary to the best interests of the child. The court shall consider the
23 safety and well-being of the child and of the victim of the act of domestic
24 violence to be of primary importance. The court shall consider a
25 perpetrator's history of causing or threatening to cause physical harm to
26 another person.

27 N. If the court determines that a parent who is seeking custody has
28 committed an act of domestic violence against the other parent, there is a
29 rebuttable presumption that an award of custody to the parent who committed
30 the act of domestic violence is contrary to the child's best interests. This
31 presumption does not apply if both parents have committed an act of domestic
32 violence. For the purposes of this subsection, a person commits an act of
33 domestic violence if that person does any of the following:

34 1. Intentionally, knowingly or recklessly causes or attempts to cause
35 sexual assault or serious physical injury.

36 2. Places a person in reasonable apprehension of imminent serious
37 physical injury to any person.

38 3. Engages in a pattern of behavior for which a court may issue an ex
39 parte order to protect the other parent who is seeking child custody or to
40 protect the child and the child's siblings.

41 O. To determine if the parent has rebutted the presumption the court
42 shall consider all of the following:

43 1. Whether the parent has demonstrated that being awarded sole custody
44 or joint physical or legal custody is in the child's best interests.

45 2. Whether the parent has successfully completed a batterer's
46 prevention program.

1 3. Whether the parent has successfully completed a program of alcohol
2 or drug abuse counseling, if the court determines that counseling is
3 appropriate.

4 4. Whether the parent has successfully completed a parenting class, if
5 the court determines that a parenting class is appropriate.

6 5. If the parent is on probation, parole or community supervision,
7 whether the parent is restrained by a protective order that was granted after
8 a hearing.

9 6. Whether the parent has committed any further acts of domestic
10 violence.

11 P. If the court finds that a parent has committed an act of domestic
12 violence, that parent has the burden of proving to the court's satisfaction
13 that parenting time will not endanger the child or significantly impair the
14 child's emotional development. If the parent meets this burden to the
15 court's satisfaction, the court shall place conditions on parenting time that
16 best protect the child and the other parent from further harm. The court
17 may:

18 1. Order that an exchange of the child must occur in a protected
19 setting as specified by the court.

20 2. Order that an agency specified by the court must supervise
21 parenting time. If the court allows a family or household member to
22 supervise parenting time, the court shall establish conditions that this
23 person must follow during parenting time.

24 3. Order the parent who committed the act of domestic violence to
25 attend and complete, to the court's satisfaction, a program of intervention
26 for perpetrators of domestic violence and any other counseling the court
27 orders.

28 4. Order the parent who committed the act of domestic violence to
29 abstain from possessing or consuming alcohol or controlled substances during
30 parenting time and for twenty-four hours before parenting time.

31 5. Order the parent who committed the act of domestic violence to pay
32 a fee to the court to defray the costs of supervised parenting time.

33 6. Prohibit overnight parenting time.

34 7. Require a bond from the parent who committed the act of domestic
35 violence for the child's safe return.

36 8. Order that the address of the child and the other parent remain
37 confidential.

38 9. Impose any other condition that the court determines is necessary
39 to protect the child, the other parent and any other family or household
40 member.

41 Q. In determining whether the absence or relocation of a parent shall
42 be weighed against that parent in determining custody or parenting time, the
43 court may consider whether the absence or relocation was caused by an act of
44 domestic violence by the other parent.

45 R. The court shall not order joint counseling between a victim and the
46 perpetrator of domestic violence. The court may refer a victim to

1 appropriate counseling and shall provide a victim with written information
2 about available community resources related to domestic violence.

3 S. To determine if a person has committed an act of domestic violence
4 the court, subject to the rules of evidence, shall consider all relevant
5 factors including the following:

- 6 1. Findings from another court of competent jurisdiction.
- 7 2. Police reports.
- 8 3. Medical reports.
- 9 4. Child protective services records.
- 10 5. Domestic violence shelter records.
- 11 6. School records.
- 12 7. Witness testimony.

13 T. A person shall not make a motion to modify a custody decree earlier
14 than one year after its date, unless the court permits it to be made on the
15 basis of affidavits that there is reason to believe the child's present
16 environment may seriously endanger the child's physical, mental, moral or
17 emotional health. At any time after a joint custody order is entered, a
18 parent may petition the court for modification of the order on the basis of
19 evidence that domestic violence pursuant to section 13-1201 or 13-1204,
20 spousal abuse or child abuse occurred since the entry of the joint custody
21 order. Six months after a joint custody order is entered, a parent may
22 petition the court for modification of the order based on the failure of the
23 other parent to comply with the provisions of the order. A motion or
24 petition to modify a custody order shall meet the requirements of sections
25 25-408 and 25-411. Except as otherwise provided in subsection U of this
26 section, if a custodial parent is a member of the United States armed forces,
27 the court shall consider the terms of that parent's military family care plan
28 to determine what is in the child's best interest during the custodial
29 parent's military deployment.

30 U. For the purposes of a motion to modify a custody decree, the
31 military deployment of a custodial parent who is a member of the United
32 States armed forces is not a change in circumstances that materially affects
33 the welfare of the child if the custodial parent has filed a military family
34 care plan with the court at a previous custody proceeding and if the military
35 deployment is less than six months.

36 V. The court shall assess attorney fees and costs against a party
37 seeking modification if the court finds that the modification action is
38 vexatious and constitutes harassment.

39 W. In a proceeding regarding sole custody or joint custody, either
40 party may request attorney fees, costs and expert witness fees to enable the
41 party with insufficient resources to obtain adequate legal representation and
42 to prepare evidence for the hearing. If the court finds there is a financial
43 disparity between the parties, the court may order payment of reasonable
44 fees, expenses and costs to allow adequate preparation.

45 X. For any custody order entered under this section, the court shall
46 determine an amount of child support in accordance with section 25-320 and

1 guidelines established pursuant to that section. An award of joint custody
2 does not diminish the responsibility of either parent to provide for the
3 support of the child.

4 Y. The court shall not request or order the services of the division
5 of children and family services in the department of economic security unless
6 it believes that a child may be the victim of child abuse or neglect as
7 defined in section 8-201.

8 Sec. 37. Section 41-1291, Arizona Revised Statutes, is amended to
9 read:

10 41-1291. Joint legislative committee on children and family
11 services

12 A. The joint legislative committee on children and family services is
13 established consisting of the following members who have an interest in and
14 familiarity with issues and programs concerning children and family services:

15 1. Five members of the senate appointed by the president of the
16 senate, not more than three of whom shall be members of the same political
17 party. The president shall designate one member as cochairperson.

18 2. Five members of the house of representatives appointed by the
19 speaker of the house of representatives, not more than three of whom shall be
20 members of the same political party. The speaker shall designate one member
21 as cochairperson.

22 B. The committee shall meet within thirty days of the presentation by
23 a member of the legislature of a written constituent complaint and a written
24 request to review. The committee shall also meet whenever committee members
25 consider it necessary except that the committee shall not meet more than ten
26 times each year unless the president of the senate and the speaker of the
27 house of representatives agree to additional meetings. **THE COMMITTEE SHALL**
28 **MEET AT LEAST ANNUALLY TO REVIEW CHILD FATALITIES RELATED TO ABUSE OR**
29 **NEGLECT.** If the committee meets pursuant to a legislator's request to
30 review, the legislator who made the request may be present when the committee
31 reviews the case and may receive and review all information presented
32 pertaining to the matter requested to be reviewed. On request of the person
33 who is the subject of an investigation under review, the committee may meet
34 with that person in executive session pursuant to section 38-431.03 and
35 without the presence of any representative of the department of economic
36 security.

37 C. Six members constitute a quorum.

38 D. The committee shall:

39 1. **REVIEW REPORTS OF CHILD ABUSE, NEGLECT AND DEPENDENCY AND ACTIONS**
40 **TAKEN BY THE DEPARTMENT TO PROTECT CHILDREN.**

41 2. **HAVE ACCESS TO ALL CHILD PROTECTIVE SERVICES RECORDS OF THE**
42 **DEPARTMENT ON REQUEST OF A CHAIRPERSON OF THE COMMITTEE OR A MAJORITY VOTE OF**
43 **THE COMMITTEE.**

44 ~~1.~~ 3. Monitor children and family services and legislative
45 recommendations concerning children and family services.

1 ~~2-~~ 4. Provide a forum for persons to express their concerns about
2 state programs that relate to children and family services.

3 ~~3-~~ 5. Make administrative and legislative recommendations concerning
4 children and family services.

5 ~~4-~~ 6. Work with the ombudsman-citizens aide office to make systemic
6 recommendations to improve the system that delivers services to children and
7 families.

8 E. The committee has the authority conferred by law on legislative
9 committees.

10 F. The committee may use the services of legislative staff.

11 Sec. 38. Section 41-1953, Arizona Revised Statutes, is amended to
12 read:

13 41-1953. Department organization; deputy director; assistant
14 directors

15 A. The director may establish, abolish or reorganize the positions or
16 organizational units within the department to carry out the functions
17 provided by section 41-1954, subject to legislative appropriation, if in the
18 director's judgment the modification of organization would make the operation
19 of the department more efficient, effective or economical. The director or
20 the director's deputy shall enforce cooperation among the divisions in the
21 provision and integration of all functions on the district and local level.

22 B. The director shall appoint a deputy director of the department with
23 the advice and consent of the governor. The deputy director shall serve at
24 the pleasure of the director. The deputy director shall be directly
25 responsible for the operation and coordination of those services of the
26 department concerning initial intake, screening, evaluation and referral of
27 persons served by the department.

28 C. The director shall appoint an assistant director to head each
29 organizational unit that the director may establish. Each assistant director
30 shall serve at the pleasure of the director.

31 D. TO THE MAXIMUM EXTENT POSSIBLE, THE DIRECTOR SHALL ESTABLISH
32 SEPARATE INVESTIGATION UNITS FOR THE PURPOSE OF INVESTIGATING ALLEGATIONS OF
33 DEPENDENCY, ABUSE AND NEGLECT ACCORDING TO PROTOCOLS ESTABLISHED PURSUANT TO
34 SECTION 8-817.

35 ~~D-~~ E. The department succeeds to the authority, powers, duties and
36 responsibilities of the following:

37 1. The employment security commission of Arizona and its Arizona state
38 employment service, unemployment compensation and administrative service
39 divisions.

40 2. The state department of public welfare.

41 3. The division of vocational rehabilitation.

42 4. The state office of economic opportunity.

43 5. The state office of manpower planning.

44 6. The state department of mental retardation.

45 ~~E-~~ F. In the statutes, references to the agencies and departments
46 listed in subsection ~~D-~~ E shall be deemed to be references to the department

1 of economic security or its appropriate divisions, offices or organizational
2 units.

3 Sec. 39. Section 41-1954, Arizona Revised Statutes, is amended to
4 read:

5 41-1954. Powers and duties

6 A. In addition to the powers and duties of the agencies listed in
7 section 41-1953, subsection ~~D~~ E, the department shall:

8 1. Administer the following services:

9 (a) Employment services, which shall include manpower programs and
10 work training, field operations, technical services, unemployment
11 compensation, community work and training and other related functions in
12 furtherance of programs under the social security act, as amended, the
13 Wagner-Peyser act, as amended, the federal unemployment tax act, as amended,
14 33 United States Code, the family support act of 1988 (P.L. 100-485) and
15 other related federal acts and titles.

16 (b) Individual and family services, which shall include a section on
17 aging, services to children, youth and adults and other related functions in
18 furtherance of social service programs under the social security act, as
19 amended, title IV, grants to states for aid and services to needy families
20 with children and for child-welfare services, title XX, grants to states for
21 services, the older Americans act, as amended, the family support act of 1988
22 (P.L. 100-485) and other related federal acts and titles.

23 (c) Income maintenance services, which shall include categorical
24 assistance programs, special services unit, child support collection
25 services, establishment of paternity services, maintenance and operation of a
26 state case registry of child support orders, a state directory of new hires,
27 a support payment clearinghouse and other related functions in furtherance of
28 programs under the social security act, title IV, grants to states for aid
29 and services to needy families with children and for child-welfare services,
30 title XX, grants to states for services, as amended, and other related
31 federal acts and titles.

32 (d) Rehabilitation services, which shall include vocational
33 rehabilitation services and sections for the blind and visually impaired,
34 communication disorders, correctional rehabilitation and other related
35 functions in furtherance of programs under the vocational rehabilitation act,
36 as amended, the Randolph-Sheppard act, as amended, and other related federal
37 acts and titles.

38 (e) Administrative services, which shall include the coordination of
39 program evaluation and research, interagency program coordination and
40 in-service training, planning, grants, development and management,
41 information, legislative liaison, budget, licensing and other related
42 functions.

43 (f) Manpower planning, which shall include a state manpower planning
44 council for the purposes of the federal-state-local cooperative manpower
45 planning system and other related functions in furtherance of programs under

1 the comprehensive employment and training act of 1973, as amended, and other
2 related federal acts and titles.

3 (g) Economic opportunity services, which shall include the furtherance
4 of programs prescribed under the economic opportunity act of 1967, as
5 amended, and other related federal acts and titles.

6 (h) Mental retardation and other developmental disability programs,
7 with emphasis on referral and purchase of services. The program shall
8 include educational, rehabilitation, treatment and training services and
9 other related functions in furtherance of programs under the developmental
10 disabilities services and facilities construction act, Public Law 91-517, and
11 other related federal acts and titles.

12 (i) Nonmedical home and community based services and functions
13 including department designated case management, housekeeping services, chore
14 services, home health aid, personal care, visiting nurse services, adult day
15 care or adult day health, respite sitter care, attendant care, home delivered
16 meals and other related services and functions.

17 2. Provide a coordinated system of initial intake, screening,
18 evaluation and referral of persons served by the department.

19 3. Adopt rules it deems necessary or desirable to further the
20 objectives and programs of the department.

21 4. Formulate policies, plans and programs to effectuate the missions
22 and purposes of the department.

23 5. Employ, determine the conditions of employment and prescribe the
24 duties and powers of administrative, professional, technical, secretarial,
25 clerical and other persons as may be necessary in the performance of its
26 duties, contract for the services of outside advisors, consultants and aides
27 as may be reasonably necessary and reimburse department volunteers,
28 designated by the director, for expenses in transporting clients of the
29 department on official business.

30 6. Make contracts and incur obligations within the general scope of
31 its activities and operations subject to the availability of funds.

32 7. Contract with or assist other departments, agencies and
33 institutions of the state, local and federal governments in the furtherance
34 of its purposes, objectives and programs.

35 8. Be designated as the single state agency for the purposes of
36 administering and in furtherance of each federally supported state plan.

37 9. Accept and disburse grants, matching funds and direct payments from
38 public or private agencies for the conduct of programs which are consistent
39 with the overall purposes and objectives of the department.

40 10. Provide information and advice on request by local, state and
41 federal agencies and by private citizens, business enterprises and community
42 organizations on matters within the scope of its duties subject to the
43 departmental rules on the confidentiality of information.

44 11. Establish and maintain separate financial accounts as required by
45 federal law or regulations.

1 12. Advise with and make recommendations to the governor and the
2 legislature on all matters concerning its objectives.

3 13. Have an official seal which shall be judicially noticed.

4 14. Annually estimate the current year's population of each county,
5 city and town in this state, using the periodic census conducted by the
6 United States department of commerce, or its successor agency, as the basis
7 for such estimates and deliver such estimates to the economic estimates
8 commission before December 15.

9 15. Estimate the population of any newly annexed areas of a political
10 subdivision as of July 1 of the fiscal year in which the annexation occurs
11 and deliver such estimates as promptly as is feasible after the annexation
12 occurs to the economic estimates commission.

13 16. Establish and maintain a statewide program of services for persons
14 who are both hearing impaired and visually impaired and coordinate
15 appropriate services with other agencies and organizations to avoid
16 duplication of these services and to increase efficiency. The department of
17 economic security shall enter into agreements for the utilization of the
18 personnel and facilities of the department of economic security, the
19 department of health services and other appropriate agencies and
20 organizations in providing these services.

21 17. Establish and charge fees for deposit in the department of economic
22 security prelayoff assistance services fund to employers who voluntarily
23 participate in the services of the department which provide job service and
24 retraining for persons who have been or are about to be laid off from
25 employment. The department shall charge only those fees necessary to cover
26 the costs of administering the job service and retraining services.

27 18. Establish a focal point for addressing the issue of hunger in
28 Arizona and provide coordination and assistance to public and private
29 nonprofit organizations which aid hungry persons and families throughout this
30 state. Specifically such activities shall include:

31 (a) Collecting and disseminating information regarding the location
32 and availability of surplus food for distribution to needy persons, the
33 availability of surplus food for donation to charity food bank organizations,
34 and the needs of charity food bank organizations for surplus food.

35 (b) Coordinating the activities of federal, state, local and private
36 nonprofit organizations that provide food assistance to the hungry.

37 (c) Accepting and disbursing federal monies, and any state monies
38 appropriated by the legislature, to private nonprofit organizations in
39 support of the collection, receipt, handling, storage and distribution of
40 donated or surplus food items.

41 (d) Providing technical assistance to private nonprofit organizations
42 that provide or intend to provide services to the hungry.

43 (e) Developing a state plan on hunger which, at a minimum, identifies
44 the magnitude of the hunger problem in this state, the characteristics of the
45 population in need, the availability and location of charity food banks and
46 the potential sources of surplus food, assesses the effectiveness of the

1 donated food collection and distribution network and other efforts to
2 alleviate the hunger problem, and recommends goals and strategies to improve
3 the status of the hungry. The state plan on hunger shall be incorporated
4 into the department's state comprehensive plan prepared pursuant to section
5 41-1956.

6 (f) Establishing a special purpose advisory council on hunger pursuant
7 to section 41-1981.

8 19. Establish an office to address the issue of homelessness and to
9 provide coordination and assistance to public and private nonprofit
10 organizations that prevent homelessness or aid homeless individuals and
11 families throughout this state. These activities shall include:

12 (a) Promoting and participating in planning for the prevention of
13 homelessness and the development of services to homeless persons.

14 (b) Identifying and developing strategies for resolving barriers in
15 state agency service delivery systems that inhibit the provision and
16 coordination of appropriate services to homeless persons and persons in
17 danger of being homeless.

18 (c) Assisting in the coordination of the activities of federal, state
19 and local governments and the private sector that prevent homelessness or
20 provide assistance to homeless people.

21 (d) Assisting in obtaining and increasing funding from all appropriate
22 sources to prevent homelessness or assist in alleviating homelessness.

23 (e) Serving as a clearinghouse on information regarding funding and
24 services available to assist homeless persons and persons in danger of being
25 homeless.

26 (f) Developing an annual state comprehensive homeless assistance plan
27 to prevent and alleviate homelessness.

28 (g) Submitting an annual report by January 1, 1992 and each year
29 thereafter to the governor, the president of the senate and the speaker of
30 the house of representatives on the status of homelessness and efforts to
31 prevent and alleviate homelessness.

32 20. Cooperate with the Arizona-Mexico commission in the governor's
33 office and with researchers at universities in this state to collect data and
34 conduct projects in the United States and Mexico on issues that are within
35 the scope of the department's duties and that relate to quality of life,
36 trade and economic development in this state in a manner that will help the
37 Arizona-Mexico commission to assess and enhance the economic competitiveness
38 of this state and of the Arizona-Mexico region.

39 B. If the department has responsibility for the care, custody or
40 control of a child or is paying the cost of care for a child, it may serve as
41 representative payee to receive and administer social security and veterans
42 administration benefits and other benefits payable to such child.
43 Notwithstanding any law to the contrary, the department:

44 1. Shall deposit, pursuant to sections 35-146 and 35-147, such monies
45 as it receives to be retained separate and apart from the state general fund
46 on the books of the department of administration.

1 2. May use such monies to defray the cost of care and services
2 expended by the department for the benefit, welfare and best interests of the
3 child and invest any of the monies that the director determines are not
4 necessary for immediate use.

5 3. Shall maintain separate records to account for the receipt,
6 investment and disposition of funds received for each child.

7 4. On termination of the department's responsibility for the child,
8 shall release any funds remaining to the child's credit in accordance with
9 the requirements of the funding source or in the absence of such requirements
10 shall release the remaining funds to:

11 (a) The child, if the child is at least eighteen years of age or is
12 emancipated.

13 (b) The person responsible for the child if the child is a minor and
14 not emancipated.

15 C. Subsection B of this section does not pertain to benefits payable
16 to or for the benefit of a child receiving services under title 36.

17 D. Volunteers reimbursed for expenses pursuant to subsection A,
18 paragraph 5 of this section are not eligible for workers' compensation under
19 title 23, chapter 6.

20 E. In implementing the temporary assistance for needy families program
21 pursuant to Public Law 104-193, the department shall provide for cash
22 assistance to two parent families if both parents are able to work only upon
23 documented participation by both parents in work activities described in
24 title 46, chapter 2, article 5, except that payments may be made to families
25 who do not meet the participation requirements if:

26 1. It is determined on an individual case basis that they have
27 emergency needs.

28 2. The family is determined to be eligible for diversion from
29 long-term cash assistance pursuant to title 46, chapter 2, article 5.

30 F. The department shall provide for cash assistance under temporary
31 assistance for needy families pursuant to Public Law 104-193 to two parent
32 families for no longer than six months if both parents are able to work,
33 except that additional assistance may be provided on an individual case basis
34 to families with extraordinary circumstances. The department shall establish
35 by rule the criteria to be used to determine eligibility for additional cash
36 assistance.

37 G. The department may establish a representative payee program to
38 provide representative payee services to manage social security or
39 supplemental security income benefits for persons who are receiving general
40 assistance benefits pursuant to section 46-233 and who require the services
41 of a representative payee to manage social security or supplemental security
42 income benefits. The department may use not more than an average of eight
43 hundred fifty dollars for any one person annually from monies appropriated
44 for general assistance benefits for the purpose of paying persons or agencies
45 to provide representative payee services.

1 H. The department shall adopt the following discount medical payment
2 system no later than October 1, 1993 for persons who the department
3 determines are eligible and who are receiving rehabilitation services
4 pursuant to subsection A, paragraph 1, subdivision (d) of this section:

5 1. For inpatient hospital admissions and outpatient hospital services
6 the department shall reimburse a hospital according to the tiered per diem
7 rates and outpatient cost-to-charge ratios established by the Arizona health
8 care cost containment system pursuant to section 36-2903.01, subsection H.

9 2. The department's liability for a hospital claim under this
10 subsection is subject to availability of funds.

11 3. A hospital bill is considered received for purposes of paragraph 5
12 of this subsection upon initial receipt of the legible, error-free claim form
13 by the department if the claim includes the following error-free
14 documentation in legible form:

15 (a) An admission face sheet.

16 (b) An itemized statement.

17 (c) An admission history and physical.

18 (d) A discharge summary or an interim summary if the claim is split.

19 (e) An emergency record, if admission was through the emergency room.

20 (f) Operative reports, if applicable.

21 (g) A labor and delivery room report, if applicable.

22 4. The department shall require that the hospital pursue other third
23 party payors before submitting a claim to the department. Payment received
24 by a hospital from the department pursuant to this subsection is considered
25 payment by the department of the department's liability for the hospital
26 bill. A hospital may collect any unpaid portion of its bill from other third
27 party payors or in situations covered by title 33, chapter 7, article 3.

28 5. For inpatient hospital admissions and outpatient hospital services
29 rendered on and after October 1, 1997, if the department receives the claim
30 directly from the hospital, the department shall pay a hospital's rate
31 established according to this section subject to the following:

32 (a) If the hospital's bill is paid within thirty days of the date the
33 bill was received, the department shall pay ninety-nine per cent of the rate.

34 (b) If the hospital's bill is paid after thirty days but within sixty
35 days of the date the bill was received, the department shall pay one hundred
36 per cent of the rate.

37 (c) If the hospital's bill is paid any time after sixty days of the
38 date the bill was received, the department shall pay one hundred per cent of
39 the rate plus a fee of one per cent per month for each month or portion of a
40 month following the sixtieth day of receipt of the bill until the date of
41 payment.

42 6. For medical services other than those for which a rate has been
43 established pursuant to section 36-2903.01, subsection H, the department
44 shall pay according to the Arizona health care cost containment system capped
45 fee-for-service schedule adopted pursuant to section 36-2904, subsection L or
46 any other established fee schedule the department determines reasonable.

1 I. The department shall not pay claims for services pursuant to this
2 section that are submitted more than nine months after the date of service
3 for which the payment is claimed.

4 J. To assist in the location of persons or assets for the purpose of
5 establishing paternity, establishing, modifying or enforcing child support
6 obligations and other related functions, the department has access, including
7 automated access if the records are maintained in an automated data base, to
8 records of state and local government agencies, including:

- 9 1. Vital statistics, including records of marriage, birth and divorce.
- 10 2. State and local tax and revenue records, including information on
11 residence address, employer, income and assets.
- 12 3. Records concerning real and titled personal property.
- 13 4. Records of occupational and professional licenses.
- 14 5. Records concerning the ownership and control of corporations,
15 partnerships and other business entities.
- 16 6. Employment security records.
- 17 7. Records of agencies administering public assistance programs.
- 18 8. Records of the motor vehicle division of the department of
19 transportation.

- 20 9. Records of the state department of corrections.
- 21 10. Any system used by a state agency to locate a person for motor
22 vehicle or law enforcement purposes, including access to information
23 contained in the Arizona criminal justice information system.

24 K. Notwithstanding subsection J of this section, the department or its
25 agents shall not seek or obtain information on the assets of an individual
26 unless paternity is presumed pursuant to section 25-814 or established.

27 L. Access to records of the department of revenue pursuant to
28 subsection J of this section shall be provided in accordance with section
29 42-2003.

30 M. The department also has access to certain records held by private
31 entities with respect to child support obligors or obligees, or individuals
32 against whom such an obligation is sought. The information shall be obtained
33 as follows:

- 34 1. In response to a child support subpoena issued by the department
35 pursuant to section 25-520, the names and addresses of these persons and the
36 names and addresses of the employers of these persons, as appearing in
37 customer records of public utilities and cable television companies.

- 38 2. Information on these persons held by financial institutions.

39 N. Pursuant to department rules, the department may compromise or
40 settle any support debt owed to the department if the director or an
41 authorized agent determines that it is in the best interest of the state and
42 after considering each of the following factors:

- 43 1. The obligor's financial resources.
- 44 2. The cost of further enforcement action.
- 45 3. The likelihood of recovering the full amount of the debt.

1 0. Notwithstanding any law to the contrary, a state or local
2 governmental agency or private entity is not subject to civil liability for
3 the disclosure of information made in good faith to the department pursuant
4 to this section.

5 Sec. 40. Title 41, chapter 14, article 1, Arizona Revised Statutes, is
6 amended by adding section 41-1966, to read:

7 41-1966. Department of economic security; audit team; duties

8 A. THE AUDITOR GENERAL SHALL ESTABLISH AN AUDIT TEAM TO BE LOCATED IN
9 THE DEPARTMENT OF ECONOMIC SECURITY TO PROVIDE ONGOING PERFORMANCE REVIEW AND
10 ANALYSES.

11 B. PURSUANT TO AN AUDIT PLAN ADOPTED AFTER REVIEW BY THE JOINT
12 LEGISLATIVE AUDIT COMMITTEE, THE AUDIT TEAM MAY:

13 1. DETERMINE THE VALIDITY AND ACCURACY OF INFORMATION REPORTED BY THE
14 DIVISION TO THE LEGISLATURE.

15 2. PERFORM OTHER REVIEWS AND ANALYSES RELATING TO CHILD PROTECTIVE
16 SERVICES AS SET FORTH IN THE AUDIT PLAN.

17 3. REVIEW A SPECIFIC DIVISION FUNCTION OR PROCESS RELATING TO CHILD
18 PROTECTIVE SERVICES AS REQUESTED BY THE JOINT LEGISLATIVE AUDIT COMMITTEE.

19 C. PURSUANT TO SECTION 41-1279.04, THE DEPARTMENT SHALL PROVIDE THE
20 AUDITOR GENERAL ACCESS TO ANY DATA FROM THE DEPARTMENT, INCLUDING ELECTRONIC
21 DATA, THE AUDITOR GENERAL DEEMS NECESSARY TO PERFORM THE DUTIES OUTLINED IN
22 THIS SECTION. THIS DATA SHALL BE PROVIDED IN THE MANNER AND FORMAT
23 PRESCRIBED BY THE AUDITOR GENERAL.

24 Sec. 41. Laws 2003, chapter 208, section 1 is amended to read:

25 Section 1. Open juvenile proceedings; pilot projects;
26 confidential records; report

27 A. The department of economic security, in collaboration with the
28 superior court juvenile division in ~~Maricopa county~~ COUNTIES WITH A
29 POPULATION OF MORE THAN FIVE HUNDRED THOUSAND PERSONS shall implement a pilot
30 project to open to the public at least ~~five per cent but no more than~~ ten per
31 cent of the dependency, guardianship and termination of parental rights
32 proceedings filed in the division and to determine if opening these
33 proceedings to the public will promote due process while safeguarding privacy
34 rights. IN COUNTIES WITH A POPULATION OF FIVE HUNDRED THOUSAND OR FEWER
35 PERSONS BUT MORE THAN ONE HUNDRED FIFTY THOUSAND PERSONS, THE DEPARTMENT OF
36 ECONOMIC SECURITY, IN COLLABORATION WITH THE SUPERIOR COURT JUVENILE DIVISION
37 SHALL IMPLEMENT A PILOT PROJECT TO OPEN TO THE PUBLIC AT LEAST FIVE PER CENT
38 OF THE DEPENDENCY, GUARDIANSHIP AND TERMINATION OF PARENTAL RIGHTS
39 PROCEEDINGS FILED IN THE DIVISION AND TO DETERMINE IF OPENING THESE
40 PROCEEDINGS TO THE PUBLIC WILL PROMOTE DUE PROCESS WHILE SAFEGUARDING PRIVACY
41 RIGHTS. IN COUNTIES WITH A POPULATION OF ONE HUNDRED FIFTY THOUSAND OR FEWER
42 PERSONS, THE DEPARTMENT OF ECONOMIC SECURITY, IN COLLABORATION WITH THE
43 SUPERIOR COURT JUVENILE DIVISION FOR EACH COUNTY SHALL IMPLEMENT A PILOT
44 PROJECT TO OPEN TO THE PUBLIC AT LEAST FIVE PER CENT BUT NOT MORE THAN TEN
45 PER CENT OF THE DEPENDENCY, GUARDIANSHIP AND TERMINATION OF PARENTAL RIGHTS
46 PROCEEDINGS FILED IN THE DIVISION AND TO DETERMINE IF OPENING THESE

1 PROCEEDINGS TO THE PUBLIC WILL PROMOTE DUE PROCESS WHILE SAFEGUARDING PRIVACY
2 RIGHTS. The pilot ~~project~~ PROJECTS must comply with federal requirements
3 that are prescribed as a condition to the allocation of federal monies to
4 this state.

5 B. Except as provided in section 8-807, Arizona Revised Statutes,
6 records relating to a proceeding that is open to the public pursuant to this
7 section are ~~not open to public inspection~~. AVAILABLE FOR PUBLIC INSPECTION,
8 EXCEPT THAT THE FOLLOWING INFORMATION SHALL NOT BE ACCESSIBLE TO THE PUBLIC:

9 1. AUDIOTAPES OR VIDEOTAPES OF A CHILD ALLEGING OR DESCRIBING PHYSICAL
10 ABUSE, SEXUAL ABUSE OR NEGLECT OF ANY CHILD.

11 2. PORTIONS OF CHILD PROTECTIVE SERVICES CASE RECORDS THAT IDENTIFY
12 REPORTERS OF ABUSE OR NEGLECT.

13 3. HIV TEST RESULTS.

14 4. MEDICAL RECORDS, CHEMICAL DEPENDENCY EVALUATIONS AND RECORDS,
15 PSYCHOLOGICAL EVALUATIONS AND RECORDS AND PSYCHIATRIC EVALUATIONS AND
16 RECORDS.

17 5. SEXUAL OFFENDER TREATMENT PROGRAM REPORTS.

18 6. PORTIONS OF PHOTOGRAPHS THAT IDENTIFY A CHILD OR RECORDS OR
19 PORTIONS OF RECORDS THAT SPECIFICALLY IDENTIFY A MINOR VICTIM OF AN ALLEGED
20 OR ADJUDICATED SEXUAL ABUSE PURSUANT TO SECTION 13-1404, SEXUAL CONDUCT WITH
21 A MINOR PURSUANT TO SECTION 13-1405, SEXUAL ASSAULT PURSUANT TO SECTION
22 13-1406, MOLESTATION OF A CHILD PURSUANT TO SECTION 13-1410, CHILD
23 PROSTITUTION PURSUANT TO SECTION 13-3212, COMMERCIAL SEXUAL EXPLOITATION OF A
24 MINOR PURSUANT TO SECTION 13-3552, SEXUAL EXPLOITATION OF A MINOR PURSUANT TO
25 SECTION 13-3553 OR INCEST PURSUANT TO SECTION 13-3608.

26 7. ANY DOCUMENT THAT THE COURT, ON ITS OWN MOTION OR THE MOTION OF A
27 PARTY, ORDERS INACCESSIBLE TO SERVE THE BEST INTEREST OF THE CHILD.

28 8. RECORDS OR PORTIONS OF RECORDS THAT IDENTIFY THE NAME, ADDRESS,
29 HOME OR LOCATION OF ANY SHELTER CARE OR FOSTER CARE FACILITY IN WHICH A CHILD
30 IS PLACED PURSUANT TO TEMPORARY CUSTODY CARE PLACEMENT, FOSTER CARE
31 PLACEMENT, PREADOPTIVE PLACEMENT, ADOPTIVE PLACEMENT OR ANY OTHER TYPE OF
32 COURT ORDERED PLACEMENT.

33 9. PERSONALLY IDENTIFIABLE INFORMATION INCLUDING THE NAME, ADDRESS,
34 DATE OF BIRTH, SOCIAL SECURITY NUMBER, TRIBAL ENROLLMENT NUMBER, TELEPHONE OR
35 FAX NUMBER, DRIVER LICENSE NUMBER, PLACES OF EMPLOYMENT, SCHOOL
36 IDENTIFICATION OR MILITARY IDENTIFICATION NUMBER OR ANY OTHER DISTINGUISHING
37 CHARACTERISTIC THAT TENDS TO IDENTIFY A PARTICULAR PERSON.

38 C. At the beginning of any proceeding, the court must ask the parties
39 if there are any reasons the proceeding should be closed.

40 D. Before opening a proceeding to the public, the court shall
41 consider:

42 1. Whether doing so is in the child's best interests.

43 2. Whether doing so would endanger the child's physical or emotional
44 well-being or the safety of any other person.

1 3. The privacy rights of the child, the child's siblings, parents,
2 guardians and caregivers and any other person whose privacy rights the court
3 determines need protection.

4 4. Whether all parties have agreed to allow the proceeding to be open.

5 E. The court shall consider the request of a child to close the
6 proceeding if the child is at least twelve years of age and a party to the
7 proceeding.

8 F. If a hearing is open, at the beginning of the hearing the court
9 shall admonish all attendees that they are prohibited by order of the court
10 from disclosing outside the hearing personally identifiable information about
11 the child, the child's siblings, parents, guardians, ~~OR~~ caregivers and ~~ANY~~
12 others mentioned in the hearing. A person who knowingly and voluntarily
13 remains in the courtroom after the admonition submits to the jurisdiction of
14 the court and shall abide by the orders of the court prohibiting disclosure
15 of that information. Failure to abide by the orders shall be deemed contempt
16 of court. The court shall explain contempt of court to all attendees,
17 including observers, and the possible consequences of violating an order of
18 the court. For the purposes of this subsection, "personally identifiable
19 information" includes name, address, date of birth, social security number,
20 tribal enrollment number, telephone or telefacsimile number, driver license
21 number, places of employment, school identification or military
22 identification number or any other distinguishing characteristic that tends
23 to identify a particular person.

24 G. The court may close an open hearing at any time during the
25 proceeding.

26 H. The department of economic security in collaboration with the
27 superior court juvenile division in Maricopa county and the administrative
28 office of the courts shall evaluate the impact and effectiveness of the pilot
29 program and shall submit a written interim report of its findings to the
30 governor, the president of the senate, the speaker of the house of
31 representatives and the chief justice of the supreme court by January 1, 2004
32 and a final report on or before ~~October~~ ~~NOVEMBER~~ 15, ~~2004~~ 2005.

33 I. The interim report shall include:

34 1. The number and type of proceedings that were open to the public.

35 2. The number of proceedings in which a person objected to the
36 proceeding being open to the public.

37 3. The number and type of proceedings ordered closed by the court and
38 the reason for this action.

39 4. The number and type of proceedings ordered closed at the request of
40 a child who was at least twelve years of age.

41 5. The number of proceedings attended by a person who was not a party
42 to the proceeding.

43 6. The satisfaction of participants in proceedings open to the public.

44 7. Whether and to what extent the opening of any proceedings resulted
45 in an adverse effect upon the child or children who were the subject of the
46 proceedings.

1 J. The final report shall include the information prescribed in
2 subsection I of this section for the period ending on ~~June~~ SEPTEMBER 30, ~~2004~~
3 2005 and a detailed analysis of the operational and fiscal implications of a
4 statewide implementation of open court proceedings.

5 K. THE DEPARTMENT OF ECONOMIC SECURITY IN COLLABORATION WITH THE
6 APPROPRIATE SUPERIOR COURT JUVENILE DIVISION AND THE ADMINISTRATIVE OFFICE OF
7 THE COURTS SHALL EVALUATE THE IMPACT AND EFFECTIVENESS OF THE PILOT PROGRAM
8 IN EACH PARTICIPATING COUNTY OTHER THAN MARICOPA COUNTY AND SHALL SUBMIT A
9 WRITTEN REPORT OF ITS FINDINGS TO THE GOVERNOR, THE PRESIDENT OF THE SENATE
10 AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ON OR BEFORE NOVEMBER 15,
11 2005. THE REPORT MAY BE SUBMITTED WITH THE FINAL REPORT OF THE MARICOPA
12 COUNTY PILOT PROJECT AS REQUIRED BY SUBSECTION H OF THIS SECTION AND THE
13 REPORT SHALL CONTAIN THE INFORMATION PRESCRIBED IN SUBSECTION I OF THIS
14 SECTION FOR THE PERIOD ENDING SEPTEMBER 30, 2005.

15 Sec. 42. Laws 2003, chapter 208, section 3 is amended to read:

16 Sec. 3. Delayed repeal

17 Section 1 of this act is repealed from and after December 31, ~~2004~~
18 2005.

19 Sec. 43. Protocols for initial screening and safety assessments

20 The department of economic security shall develop the protocols for
21 initial screening and safety assessments of child abuse and neglect
22 allegations pursuant to section 8-817, Arizona Revised Statutes, as added by
23 this act, on or before July 1, 2004.

24 Sec. 44. Protocols for joint investigations

25 The county attorney in each county, the county sheriff, the chief law
26 enforcement officers of each municipality in the county and the department of
27 economic security shall develop the protocols for joint investigations of
28 extremely serious conduct allegations pursuant to section 8-817, Arizona
29 Revised Statutes, as added by this act, on or before July 1, 2004.

30 Sec. 45. Delayed repeal

31 Section 8-223, Arizona Revised Statutes, as added by this act, is
32 repealed from and after December 31, 2006.

33 Sec. 46. Stipend; child protective services workers

34 The director of the department of economic security shall pay, from
35 monies currently available to the department, a monthly stipend to each child
36 protective services worker who has at least three years of experience as a
37 child protective services worker and who investigates at least six
38 allegations of dependency, abuse or neglect in a month. The amount of the
39 stipend shall be ten per cent of the child protective services worker's
40 monthly salary.

41 Sec. 47. Conforming legislation

42 The legislative council staff shall prepare proposed legislation
43 conforming the Arizona Revised Statutes to the provisions of this act for
44 consideration in the forty-sixth legislature, second regular session.

45 Sec. 48. Department of economic security; deficit plan
46 exception

1 Notwithstanding section 35-131, Arizona Revised Statutes, until July 1,
2 2004, the department of economic security shall not be required to meet the
3 provisions of section 35-131, subsection D, paragraph 2, Arizona Revised
4 Statutes, with respect to child protective services. This exception is due
5 to the substantial reforms enacted by the legislature pursuant to this act.

6 Sec. 49. Child protective services; caseload standards

7 The department of economic security shall develop and adopt its own
8 specific child protective services caseload standards before July 1, 2004 and
9 report these standards to the joint legislative committee on children and
10 family services.

11 Sec. 50. Child protective services; evaluation criteria

12 A. The department of economic security shall establish evaluation
13 criteria for child protective services. These criteria shall include:

14 1. Performance measures for employees to evaluate child protective
15 services based on rankings of excellent, good, satisfactory or poor. The
16 evaluation shall provide a mechanism for employees to provide suggestions for
17 improvement of child protective services and the foster parent system.

18 2. Performance measures for foster parents to evaluate child
19 protective services based on rankings of excellent, good, satisfactory or
20 poor. The evaluation shall provide a mechanism for foster parents to provide
21 suggestions for improvement of child protective services and the foster
22 parent system.

23 3. Evaluations of ongoing improvements in child protective services
24 made using scientific methodology. The department shall measure its success
25 compared to other states using data that is offset for demographics and
26 income. In an effort to improve performance, the department shall evaluate
27 states that have performance with the greatest success.

28 B. The department shall conduct the evaluations pursuant to subsection
29 A, paragraphs 1 and 2 twice a year. The department shall conduct the
30 evaluations pursuant to subsection A, paragraph 3 once.

31 C. This section is repealed from and after December 31, 2005.

32 Sec. 51. Appropriations; purpose; exemption

33 A. The sum of \$350,000 is appropriated from the state general fund in
34 fiscal year 2003-2004, the sum of \$250,000 is appropriated from the state
35 general fund in fiscal year 2004-2005 and the sum of \$75,000 is appropriated
36 from the state general fund in fiscal year 2005-2006 to the department of
37 economic security for the purpose of entering into the contract required by
38 section 8-830, Arizona Revised Statutes, as added by this act.

39 B. Monies remaining unexpended and unencumbered from the
40 appropriations made in this section on July 1 immediately following the end
41 of the fiscal year for which the monies were appropriated revert to the state
42 general fund on July 1 immediately following the end of the fiscal year for
43 which the monies were appropriated.

44 Sec. 52. Appropriations; department of economic security;
45 department of health services; purposes

1 A. The following sums are appropriated from the state general fund in
2 fiscal year 2003-2004 to the department of economic security for the
3 following child protective services:
4 1. \$6,304,300 for the following purposes:
5 (a) \$1,953,500 for 93 annual FTE positions and related expenses to
6 meet national staffing standards for child protective service caseloads. The
7 93 annual FTE positions shall include 60 investigator and case manager
8 positions and 33 support staff.
9 (b) \$1,674,200 for 67 annual FTE positions and related expenses to
10 fund a one hundred per cent investigation rate. The 67 annual FTE positions
11 shall include 44 investigator and case manager positions and 23 support
12 staff.
13 (c) \$1,562,400 for performance-based compensation adjustments,
14 classification adjustments or both at the discretion of the director of the
15 department.
16 (d) \$103,500 to replace obsolete information technical support
17 equipment.
18 (e) \$1,010,700 for family home foster care rate increase.
19 2. \$10,300,000 to maintain current staffing and service levels for
20 child protective services including adoption services, permanent guardianship
21 and children services.
22 B. The sum of \$25,000 and 1 FTE position is appropriated in fiscal
23 year 2003-2004 from the state general fund to the department of health
24 services for licensing.
25 C. Monies remaining unexpended and unencumbered from the
26 appropriations made in this section revert to the state general fund on July
27 1, 2004.
28 D. The auditor general shall report monthly to the staff director of
29 the joint legislative budget committee on the expenditure of the
30 appropriations made in this section.
31 Sec. 53. Emergency
32 This act is an emergency measure that is necessary to preserve the
33 public peace, health or safety and is operative immediately as provided by
34 law.

APPROVED BY THE GOVERNOR DECEMBER 18, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE DECEMBER 18, 2003.