

REFERENCE TITLE: **extended foster care; participation**

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2728

Introduced by
Representatives Sierra: Chávez, Jermaine, Longdon, Pawlik, Senator Marsh

AN ACT

**AMENDING SECTIONS 8-201, 8-202, 8-521.02 AND 8-829, ARIZONA REVISED
STATUTES; RELATING TO EXTENDED FOSTER CARE.**

(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
7 reasonable support and to maintain regular contact with the child,
8 including providing normal supervision. Abandoned includes a judicial
9 finding that a parent has made only minimal efforts to support and
10 communicate with the child. Failure to maintain a normal parental
11 relationship with the child without just cause for a period of six months
12 constitutes prima facie evidence of abandonment.

13 2. "Abuse" means the infliction or allowing of physical injury,
14 impairment of bodily function or disfigurement or the infliction of or
15 allowing another person to cause serious emotional damage as evidenced by
16 severe anxiety, depression, withdrawal or untoward aggressive behavior and
17 which emotional damage is diagnosed by a medical doctor or psychologist
18 and is caused by the acts or omissions of an individual who has the care,
19 custody and control of a child. Abuse includes:

20 (a) Inflicting or allowing sexual abuse pursuant to section
21 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual
22 assault pursuant to section 13-1406, molestation of a child pursuant to
23 section 13-1410, commercial sexual exploitation of a minor pursuant to
24 section 13-3552, sexual exploitation of a minor pursuant to section
25 13-3553, incest pursuant to section 13-3608 or child sex trafficking
26 pursuant to section 13-3212.

27 (b) Physical injury that results from permitting a child to enter
28 or remain in any structure or vehicle in which volatile, toxic or
29 flammable chemicals are found or equipment is possessed by any person for
30 the purpose of manufacturing a dangerous drug as defined in section
31 13-3401.

32 (c) Unreasonable confinement of a child.

33 3. "Adult" means a person who is eighteen years of age or older.

34 4. "Adult court" means the appropriate justice court, municipal
35 court or criminal division of the superior court that has jurisdiction to
36 hear proceedings concerning offenses committed by juveniles as provided in
37 sections 8-327 and 13-501.

38 5. "Award" or "commit" means to assign legal custody.

39 6. "Child", "youth" or "juvenile" means an individual who is under
40 the age of eighteen years.

41 7. "Complaint" means a written statement of the essential facts
42 constituting a public offense that is any of the following:

43 (a) Made on an oath before a judge or commissioner of the superior
44 court or an authorized juvenile hearing officer.

45 (b) Made pursuant to section 13-3903.

1 (c) Accompanied by an affidavit of a law enforcement officer or
2 employee that swears on information and belief to the accuracy of the
3 complaint pursuant to section 13-4261.

4 8. "Criminal conduct allegation" means an allegation of conduct by
5 a parent, guardian or custodian of a child or an adult member of the
6 victim's household that, if true, would constitute any of the following:

7 (a) A violation of section 13-3623 involving child abuse.

8 (b) A felony offense that constitutes domestic violence as defined
9 in section 13-3601.

10 (c) A violation of section 13-1404 or 13-1406 involving a minor.

11 (d) A violation of section 13-1405, 13-1410 or 13-1417.

12 (e) Any other act of abuse that is classified as a felony.

13 (f) An offense that constitutes domestic violence as defined in
14 section 13-3601 and that involves a minor who is a victim of or was in
15 imminent danger during the domestic violence.

16 9. "Custodian" means a person, other than a parent or legal
17 guardian, who stands in loco parentis to the child or a person to whom
18 legal custody of the child has been given by order of the juvenile court.

19 10. "DCS report" means a communication received by the centralized
20 intake hotline that alleges child abuse or neglect and that meets the
21 criteria for a report as prescribed in section 8-455.

22 11. "Delinquency hearing" means a proceeding in the juvenile court
23 to determine whether a juvenile has committed a specific delinquent act as
24 set forth in a petition.

25 12. "Delinquent act" means an act by a juvenile that if committed
26 by an adult would be a criminal offense or a petty offense, a violation of
27 any law of this state, or of another state if the act occurred in that
28 state, or a law of the United States, or a violation of any law that can
29 only be violated by a minor and that has been designated as a delinquent
30 offense, or any ordinance of a city, county or political subdivision of
31 this state defining crime. Delinquent act does not include an offense
32 under section 13-501, subsection A or B if the offense is filed in adult
33 court. Any juvenile who is prosecuted as an adult or who is remanded for
34 prosecution as an adult shall not be adjudicated as a delinquent juvenile
35 for the same offense.

36 13. "Delinquent juvenile" means a child who is adjudicated to have
37 committed a delinquent act.

38 14. "Department" means the department of child safety.

39 15. "Dependent child":

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

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

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

1 (iii) A child whose home is unfit by reason of abuse, neglect,
2 cruelty or depravity by a parent, a guardian or any other person having
3 custody or care of the child.

4 (iv) Under eight years of age and who is found to have committed an
5 act that would result in adjudication as a delinquent juvenile or
6 incorrigible child if committed by an older juvenile or child.

7 (v) Incompetent or not restorable to competency and who is alleged
8 to have committed a serious offense as defined in section 13-706.

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

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

17 17. "Director" means the director of the department.

18 18. "Health professional" has the same meaning prescribed in
19 section 32-3201.

20 19. "Incorrigible child" means a child who:

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

24 (b) Is habitually truant from school as defined in section 15-803,
25 subsection C.

26 (c) Is a runaway from the child's home or parent, guardian or
27 custodian.

28 (d) Habitually behaves in such a manner as to injure or endanger
29 the morals or health of self or others.

30 (e) Commits any act constituting an offense that can only be
31 committed by a minor and that is not designated as a delinquent act.

32 (f) Fails to obey any lawful order of a court of competent
33 jurisdiction given in a noncriminal action.

34 20. "Independent living program" includes a residential program
35 with supervision of less than twenty-four hours a day.

36 21. "Juvenile court" means the juvenile division of the superior
37 court when exercising its jurisdiction over children in any proceeding
38 relating to delinquency, dependency or incorrigibility.

39 22. "Law enforcement officer" means a peace officer, sheriff,
40 deputy sheriff, municipal police officer or constable.

41 23. "Medical director of a mental health agency" means a
42 psychiatrist, or licensed physician experienced in psychiatric matters,
43 who is designated in writing by the governing body of the agency as the
44 person in charge of the medical services of the agency, or a psychiatrist
45 designated by the governing body to act for the director. The term
46 includes the superintendent of the state hospital.

1 24. "Mental health agency" means any private or public facility
2 that is licensed by this state as a mental health treatment agency, a
3 psychiatric hospital, a psychiatric unit of a general hospital or a
4 residential treatment center for emotionally disturbed children and that
5 uses secure settings or mechanical restraints.

6 25. "Neglect" or "neglected" means:

7 (a) The inability or unwillingness of a parent, guardian or
8 custodian of a child to provide that child with supervision, food,
9 clothing, shelter or medical care if that inability or unwillingness
10 causes unreasonable risk of harm to the child's health or welfare, except
11 if the inability of a parent, guardian or custodian to provide services to
12 meet the needs of a child with a disability or chronic illness is solely
13 the result of the unavailability of reasonable services.

14 (b) Permitting a child to enter or remain in any structure or
15 vehicle in which volatile, toxic or flammable chemicals are found or
16 equipment is possessed by any person for the purposes of manufacturing a
17 dangerous drug as defined in section 13-3401.

18 (c) A determination by a health professional that a newborn infant
19 was exposed prenatally to a drug or substance listed in section 13-3401
20 and that this exposure was not the result of a medical treatment
21 administered to the mother or the newborn infant by a health
22 professional. This subdivision does not expand a health professional's
23 duty to report neglect based on prenatal exposure to a drug or substance
24 listed in section 13-3401 beyond the requirements prescribed pursuant to
25 section 13-3620, subsection E. The determination by the health
26 professional shall be based on one or more of the following:

27 (i) Clinical indicators in the prenatal period including maternal
28 and newborn presentation.

29 (ii) History of substance use or abuse.

30 (iii) Medical history.

31 (iv) Results of a toxicology or other laboratory test on the mother
32 or the newborn infant.

33 (d) Diagnosis by a health professional of an infant under one year
34 of age with clinical findings consistent with fetal alcohol syndrome or
35 fetal alcohol effects.

36 (e) Deliberate exposure of a child by a parent, guardian or
37 custodian to sexual conduct as defined in section 13-3551 or to sexual
38 contact, oral sexual contact or sexual intercourse as defined in section
39 13-1401, bestiality as prescribed in section 13-1411 or explicit sexual
40 materials as defined in section 13-3507.

41 (f) Any of the following acts committed by the child's parent,
42 guardian or custodian with reckless disregard as to whether the child is
43 physically present:

44 (i) Sexual contact as defined in section 13-1401.

45 (ii) Oral sexual contact as defined in section 13-1401.

46 (iii) Sexual intercourse as defined in section 13-1401.

- 1 (iv) Bestiality as prescribed in section 13-1411.
- 2 26. "Newborn infant" means a child who is under thirty days of age.
- 3 27. "Petition" means a written statement of the essential facts
- 4 that allege delinquency, incorrigibility or dependency.
- 5 28. "Prevention" means the creation of conditions, opportunities
- 6 and experiences that encourage and develop healthy, self-sufficient
- 7 children and that occur before the onset of problems.
- 8 29. "Protective supervision" means supervision that is ordered by
- 9 the juvenile court of children who are found to be dependent or
- 10 incorrigible.
- 11 30. "Qualified young adult" means a former dependent child who is
- 12 at least eighteen years of age and not over twenty-one years of age, who
- 13 meets the criteria for an extended foster care program pursuant to section
- 14 8-521.02 and who ~~signs a voluntary agreement~~ DOES NOT DECLINE to
- 15 participate in the program.
- 16 31. "Referral" means a report that is submitted to the juvenile
- 17 court and that alleges that a child is dependent or incorrigible or that a
- 18 juvenile has committed a delinquent or criminal act.
- 19 32. "Secure care" means confinement in a facility that is
- 20 completely surrounded by a locked and physically secure barrier with
- 21 restricted ingress and egress.
- 22 33. "Serious emotional injury" means an injury that is diagnosed by
- 23 a medical doctor or a psychologist and that does any one or a combination
- 24 of the following:
- 25 (a) Seriously impairs mental faculties.
- 26 (b) Causes serious anxiety, depression, withdrawal or social
- 27 dysfunction behavior to the extent that the child suffers dysfunction that
- 28 requires treatment.
- 29 (c) Is the result of sexual abuse pursuant to section 13-1404,
- 30 sexual conduct with a minor pursuant to section 13-1405, sexual assault
- 31 pursuant to section 13-1406, molestation of a child pursuant to section
- 32 13-1410, child sex trafficking pursuant to section 13-3212, commercial
- 33 sexual exploitation of a minor pursuant to section 13-3552, sexual
- 34 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
- 35 section 13-3608.
- 36 34. "Serious physical injury" means an injury that is diagnosed by
- 37 a medical doctor and that does any one or a combination of the following:
- 38 (a) Creates a reasonable risk of death.
- 39 (b) Causes serious or permanent disfigurement.
- 40 (c) Causes significant physical pain.
- 41 (d) Causes serious impairment of health.
- 42 (e) Causes the loss or protracted impairment of an organ or limb.
- 43 (f) Is the result of sexual abuse pursuant to section 13-1404,
- 44 sexual conduct with a minor pursuant to section 13-1405, sexual assault
- 45 pursuant to section 13-1406, molestation of a child pursuant to section
- 46 13-1410, child sex trafficking pursuant to section 13-3212, commercial

1 sexual exploitation of a minor pursuant to section 13-3552, sexual
2 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
3 section 13-3608.

4 35. "Shelter care" means the temporary care of a child in any
5 public or private facility or home that is licensed by this state and that
6 offers a physically nonsecure environment that is characterized by the
7 absence of physically restricting construction or hardware and that
8 provides the child access to the surrounding community.

9 36. "Young adult administrative review" means an administrative
10 review of ~~a voluntary~~ AN extended foster care case plan with the qualified
11 young adult, the department's case specialist or designee, an independent
12 party who is not responsible for the case management of or the delivery of
13 services to the qualified young adult and any other individual the young
14 adult invites.

15 Sec. 2. Section 8-202, Arizona Revised Statutes, is amended to
16 read:

17 8-202. Jurisdiction of juvenile court

18 A. The juvenile court has original jurisdiction over all
19 delinquency proceedings brought under the authority of this title.

20 B. The juvenile court has exclusive original jurisdiction over all
21 proceedings brought under the authority of this title except for
22 delinquency proceedings.

23 C. The juvenile court may consolidate any matter, except that the
24 juvenile court shall not consolidate any of the following:

25 1. A criminal proceeding that is filed in another division of
26 superior court and that involves a child who is subject to the
27 jurisdiction of the juvenile court.

28 2. A delinquency proceeding with any other proceeding that does not
29 involve delinquency, unless the juvenile delinquency adjudication
30 proceeding is not heard at the same time or in the same hearing as a
31 nondelinquency proceeding.

32 D. The juvenile court has jurisdiction of proceedings to:

33 1. Obtain judicial consent to the marriage, employment or
34 enlistment in the armed services of a child, if consent is required by
35 law.

36 2. In an action in which parental rights are terminated pursuant to
37 chapter 4, article 5 or 11 of this title, change the name of a minor child
38 who is the subject of the action. If the minor child who is the subject
39 of the action is twelve years of age or older, the court shall consider
40 the wishes of the child with respect to the name change.

41 E. The juvenile court has jurisdiction over both civil traffic
42 violations and offenses listed in section 8-323, subsection B that are
43 committed within the county by persons who are under eighteen years of age
44 unless the presiding judge of the county declines jurisdiction of these
45 cases. The presiding judge of the county may decline jurisdiction of
46 civil traffic violations committed within the county by juveniles if the

1 presiding judge finds that the declination would promote the more
2 efficient use of limited judicial and law enforcement resources located
3 within the county. If the presiding judge declines jurisdiction, juvenile
4 civil traffic violations shall be processed, heard and disposed of in the
5 same manner and with the same penalties as adult civil traffic violations.

6 F. The orders of the juvenile court under the authority of this
7 chapter or chapter 3 or 4 of this title take precedence over any order of
8 any other court of this state except the court of appeals and the supreme
9 court to the extent that they are inconsistent with orders of other
10 courts.

11 G. Except as provided in subsection H of this section, jurisdiction
12 of a child that is obtained by the juvenile court in a proceeding under
13 this chapter or chapter 3 or 4 of this title shall be retained by it, for
14 the purposes of implementing the orders made and filed in that proceeding,
15 until the child becomes eighteen years of age, unless terminated by order
16 of the court before the child's eighteenth birthday.

17 H. If the state files a notice of intent to retain jurisdiction
18 when proceedings are commenced pursuant to section 8-301, paragraph 1 or
19 2, the court shall retain jurisdiction over a juvenile who is at least
20 seventeen years of age and who has been adjudicated a delinquent juvenile
21 until the juvenile reaches nineteen years of age, unless before the
22 juvenile's nineteenth birthday either:

- 23 1. Jurisdiction is terminated by order of the court.
- 24 2. The juvenile is discharged from the jurisdiction of the
25 department of juvenile corrections pursuant to section 41-2820.

26 I. Persons who are under eighteen years of age shall be prosecuted
27 in the same manner as adults if either:

- 28 1. The juvenile court transfers jurisdiction pursuant to section
29 8-327.
- 30 2. The juvenile is charged as an adult with an offense listed in
31 section 13-501.

32 J. The juvenile court shall retain jurisdiction after a juvenile's
33 eighteenth birthday for the purpose of designating an undesignated felony
34 offense as a misdemeanor or felony, including after an adjudication is set
35 aside pursuant to section 8-348.

36 ~~K. The juvenile court has jurisdiction to make the initial
37 determination prescribed in section 8-829 whether the voluntary
38 participation of a qualified young adult in an extended foster care
39 program pursuant to section 8-521.02 is in the young adult's best
40 interests.~~

41 Sec. 3. Section 8-521.02, Arizona Revised Statutes, is amended to
42 read:

43 8-521.02. Extended foster care program; requirements

44 A. The department ~~may~~ **SHALL** establish an extended foster care
45 program for qualified young adults. ~~To participate in the program,~~ A
46 qualified young adult ~~must meet~~ **WHO MEETS** all of the following

1 requirements IS ENROLLED IN THE PROGRAM UNLESS THE QUALIFIED YOUNG ADULT
2 DECLINES TO PARTICIPATE IN THE PROGRAM:

3 1. Have been in the custody of the department as a dependent child
4 when the young adult became eighteen years of age.

5 2. Be eighteen, nineteen or twenty years of age and be one or more
6 of the following:

7 (a) Completing secondary education or an educational program
8 leading to an equivalent credential or be enrolled in an institution that
9 provides postsecondary or vocational education.

10 (b) Employed at least eighty hours a month.

11 (c) Participating in a program or activity that promotes employment
12 or removes barriers to employment.

13 (d) Unable to be a full-time student or to be employed because of a
14 documented medical condition.

15 ~~3. Sign a voluntary extended foster care agreement with the~~
16 ~~department on or after the qualified young adult's eighteenth birthday and~~
17 ~~before the young adult's twenty-first birthday.~~

18 B. The department shall provide a progress report every six months
19 to the young adult administrative review panel for each qualified young
20 adult who participates in the extended foster care program.

21 C. The young adult administrative review panel shall review, at
22 least once every six months, the qualified young adult's ~~voluntary~~
23 extended foster care case plan, including the services and supports
24 provided and needed to assist the young adult in the young adult's
25 successful transition to adulthood.

26 D. The department shall develop and coordinate educational case
27 management plans for a qualified young adult participating in the extended
28 foster care program to assist the qualified young adult to accomplish the
29 following:

30 1. Graduate from high school.

31 2. Pass the statewide assessment to measure pupil achievement
32 adopted pursuant to section 15-741.

33 3. Apply for postsecondary education financial assistance.

34 4. Apply for postsecondary education.

35 5. Complete postsecondary education classes.

36 Sec. 4. Section 8-829, Arizona Revised Statutes, is amended to
37 read:

38 8-829. Judicial determinations; timing; documentation

39 A. If a child has been removed from the child's home, the court
40 shall make protecting the child from abuse or neglect the first priority
41 and shall make the following determinations within the following time
42 periods:

43 1. In the court's first order that sanctions the removal, whether
44 continuation of the child's residence in the home would be contrary to the
45 welfare of the child. This order may be the temporary order that the
46 court issues on the filing of a dependency petition.

1 2. At the preliminary protective hearing, whether the department
2 made attempts to identify and assess placement with the child's
3 grandparent or another member of the child's extended family including a
4 person who has a significant relationship with the child.

5 3. Within sixty days after the child is removed from the child's
6 home, whether reasonable efforts have been made to prevent removal of the
7 child or whether it was reasonable to make no efforts to prevent removal
8 of the child.

9 4. If the child is not placed with a grandparent or another member
10 of the child's extended family including a person who has a significant
11 relationship with the child within sixty days after the child is removed
12 from the child's home, why such placement is not in the best interests of
13 the child. The petitioner has the burden of presenting evidence that such
14 placement is not in the child's best interests at the first court hearing
15 thereafter.

16 5. Within twelve months after the child is removed from the child's
17 home and once every twelve months thereafter, whether reasonable efforts
18 have been made to finalize the existing permanency plan.

19 6. If the child is under three years of age, within six months
20 after the child is removed from the child's home, whether reasonable
21 efforts have been made to provide reunification services to the parent and
22 whether a parent of a child who is under three years of age has
23 substantially neglected or wilfully refused to participate in
24 reunification services offered by the department.

25 ~~B. Within one hundred twenty days after the department submits a~~
26 ~~qualified young adult's signed voluntary agreement to participate in an~~
27 ~~extended foster care program pursuant to section 8-521.02, the juvenile~~
28 ~~court shall determine whether the participation is in the qualified young~~
29 ~~adult's best interest.~~

30 ~~C.~~ B. The court shall make each determination described in
31 subsection A ~~or B~~ OF THIS SECTION on a case-by-case basis and shall set
32 forth in its written order the specific factual basis for each
33 determination. In making its determination, the court shall consider
34 documentation that is reasonably available at the time of the
35 determination.