

House Engrossed

duty to report; requirements; interviews

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HOUSE BILL 2605

AN ACT

AMENDING SECTION 13-3620, ARIZONA REVISED STATUTES; RELATING TO THE DUTY TO REPORT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3620, Arizona Revised Statutes, is amended to
3 read:

4 13-3620. Duty to report abuse, physical injury, neglect and
5 denial or deprivation of medical or surgical care
6 or nourishment of minors; medical records;
7 exception; violation; classification; definitions

8 A. Any person who reasonably believes that a minor is or has been
9 the victim of physical injury, abuse, child abuse, a reportable offense or
10 neglect that appears to have been inflicted on the minor by other than
11 accidental means or that is not explained by the available medical history
12 as being accidental in nature or who reasonably believes there has been a
13 denial or deprivation of necessary medical treatment or surgical care or
14 nourishment with the intent to cause or allow the death of an infant who
15 is protected under section 36-2281 shall immediately report ~~or cause~~
16 ~~reports to be made of~~ this information to a peace officer, to the
17 department of child safety or to a tribal law enforcement or social
18 services agency for any Indian minor who resides on an Indian reservation,
19 except if the report concerns a person who does not have care, custody or
20 control of the minor, the report shall be made to a peace officer only. A
21 member of the clergy, a Christian Science practitioner or a priest who has
22 received a confidential communication or a confession in that person's
23 role as a member of the clergy, as a Christian Science practitioner or as
24 a priest in the course of the discipline enjoined by the church to which
25 the member of the clergy, the Christian Science practitioner or the priest
26 belongs may withhold reporting of the communication or confession if the
27 member of the clergy, the Christian Science practitioner or the priest
28 determines that it is reasonable and necessary within the concepts of the
29 religion. This exemption applies only to the communication or confession
30 and not to personal observations the member of the clergy, the Christian
31 Science practitioner or the priest may otherwise make of the minor. For
32 the purposes of this subsection, "person" means:

33 1. Any physician, physician's assistant, optometrist, dentist,
34 osteopathic physician, chiropractor, podiatrist, behavioral health
35 professional, nurse, psychologist, counselor or social worker who develops
36 the reasonable belief in the course of treating a patient.

37 2. Any peace officer, child welfare investigator, child safety
38 worker, member of the clergy, priest or Christian Science practitioner.

39 3. The parent, stepparent or guardian of the minor.

40 4. School personnel, domestic violence victim advocates or sexual
41 assault victim advocates who develop the reasonable belief in the course
42 of their employment.

1 5. Any other person who has responsibility for the care or
2 treatment of the minor.

3 6. Any person who is employed as the immediate or next higher level
4 supervisor to or administrator of a person who is listed in paragraph 1,
5 2, 4 or 5 of this subsection and who develops the reasonable belief in the
6 course of the supervisor's or administrator's employment, except that if
7 the supervisor or administrator reasonably believes that the report has
8 been made by a person who is required to report pursuant to paragraph 1,
9 2, 4 or 5 of this subsection, the supervisor or administrator is not
10 required to report pursuant to this paragraph.

11 B. A report is not required under this section either:

12 1. For conduct prescribed by sections 13-1404 and 13-1405 if the
13 conduct involves only minors who are fourteen, fifteen, sixteen or
14 seventeen years of age and there is nothing to indicate that the conduct
15 is other than consensual.

16 2. If a minor is of elementary school age, the physical injury
17 occurs accidentally in the course of typical playground activity during a
18 school day, occurs on the premises of the school that the minor attends
19 and is reported to the legal parent or guardian of the minor and the
20 school maintains a written record of the incident.

21 C. If a physician, psychologist or behavioral health professional
22 receives a statement from a person other than a parent, stepparent,
23 guardian or custodian of the minor during the course of providing sex
24 offender treatment that is not court ordered or that does not occur while
25 the offender is incarcerated in the state department of corrections or the
26 department of juvenile corrections, the physician, psychologist or
27 behavioral health professional may withhold the reporting of that
28 statement if the physician, psychologist or behavioral health professional
29 determines it is reasonable and necessary to accomplish the purposes of
30 the treatment.

31 D. Reports shall be made immediately either electronically or by
32 telephone. The reports shall contain the following information, if known:

33 1. The names and addresses of the minor and the minor's parents or
34 the person or persons having custody of the minor.

35 2. The minor's age and the nature and extent of the minor's abuse,
36 child abuse, physical injury or neglect, including any evidence of
37 previous abuse, child abuse, physical injury or neglect.

38 3. Any other information that the person believes might be helpful
39 in establishing the cause of the abuse, child abuse, physical injury or
40 neglect.

41 E. A health care professional who is regulated pursuant to title 32
42 and who, after a routine newborn physical assessment of a newborn infant's
43 health status or following notification of positive toxicology screens of
44 a newborn infant, reasonably believes that the newborn infant may be
45 affected by the presence of alcohol or a drug listed in section 13-3401

1 shall immediately report this information, or cause a report to be made,
2 to the department of child safety. For the purposes of this subsection,
3 "newborn infant" means a newborn infant who is under thirty days of age.

4 F. Any person other than one required to report ~~or cause reports to~~
5 ~~be made~~ under subsection A of this section who reasonably believes that a
6 minor is or has been a victim of abuse, child abuse, physical injury, a
7 reportable offense or neglect may report the information to a peace
8 officer or to the department of child safety, except if the report
9 concerns a person who does not have care, custody or control of the minor,
10 the report shall be made to a peace officer only.

11 G. A person who has custody or control of medical records of a
12 minor for whom a report is required or authorized under this section shall
13 make the records, or a copy of the records, available to a peace officer,
14 child welfare investigator or child safety worker investigating the
15 minor's neglect, child abuse, physical injury or abuse on written request
16 for the records signed by the peace officer, child welfare investigator or
17 child safety worker. Records disclosed pursuant to this subsection are
18 confidential and may be used only in a judicial or administrative
19 proceeding or investigation resulting from a report required or authorized
20 under this section.

21 H. When reports are received by a peace officer, the officer shall
22 immediately notify the department of child safety. Notwithstanding any
23 other statute, when the department receives these reports, it shall
24 immediately notify a peace officer in the appropriate jurisdiction.

25 I. Any person who is required to receive reports pursuant to
26 subsection A of this section may take or cause to be taken photographs of
27 the minor and the vicinity involved. FORENSIC INTERVIEWS OR medical
28 examinations, OR BOTH, of the involved minor may be performed.

29 J. A person who furnishes a report, information or records required
30 or authorized under this section, or a person who participates in a
31 judicial or administrative proceeding or investigation resulting from a
32 report, information or records required or authorized under this section,
33 is immune from any civil or criminal liability by reason of that action
34 unless the person acted with malice or unless the person has been charged
35 with or is suspected of abusing or neglecting the child or children in
36 question.

37 K. Except for the attorney client privilege or the privilege under
38 subsection L of this section, no privilege applies to any:

39 1. Civil or criminal litigation or administrative proceeding in
40 which a minor's neglect, dependency, abuse, child abuse, physical injury
41 or abandonment is an issue.

1 2. Judicial or administrative proceeding resulting from a report,
2 information or records submitted pursuant to this section.

3 3. Investigation of a minor's child abuse, physical injury, neglect
4 or abuse conducted by a peace officer or the department of child safety.

5 L. In any civil or criminal litigation in which a child's neglect,
6 dependency, physical injury, abuse, child abuse or abandonment is an
7 issue, a member of the clergy, a Christian Science practitioner or a
8 priest shall not, without his consent, be examined as a witness concerning
9 any confession made to him in his role as a member of the clergy, a
10 Christian Science practitioner or a priest in the course of the discipline
11 enjoined by the church to which he belongs. This subsection does not
12 discharge a member of the clergy, a Christian Science practitioner or a
13 priest from the duty to report pursuant to subsection A of this section.

14 M. If psychiatric records are requested pursuant to subsection G of
15 this section, the custodian of the records shall notify the attending
16 psychiatrist, who may excise from the records, before they are made
17 available:

18 1. Personal information about individuals other than the patient.

19 2. Information regarding specific diagnosis or treatment of a
20 psychiatric condition, if the attending psychiatrist certifies in writing
21 that release of the information would be detrimental to the patient's
22 health or treatment.

23 N. If any portion of a psychiatric record is excised pursuant to
24 subsection M of this section, a court, on application of a peace officer,
25 child welfare investigator or child safety worker, may order that the
26 entire record or any portion of the record that contains information
27 relevant to the reported abuse, child abuse, physical injury or neglect be
28 made available to the peace officer, child welfare investigator or child
29 safety worker investigating the abuse, child abuse, physical injury or
30 neglect.

31 O. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A PHYSICIAN,
32 PHYSICIAN'S ASSISTANT, OPTOMETRIST, DENTIST, OSTEOPATHIC PHYSICIAN,
33 CHIROPRACTOR, PODIATRIST OR NURSE WHO IS REQUIRED TO MAKE A REPORT
34 PURSUANT TO SUBSECTION A OF THIS SECTION MAY DELEGATE THE OBLIGATION TO
35 REPORT TO A SUBORDINATE OR OTHER EMPLOYEE OF THE FACILITY OR PRACTICE
36 WHERE THE TREATMENT OCCURRED.

37 ~~P.~~ P. A person who violates this section is guilty of a class 1
38 misdemeanor, except if the failure to report involves a reportable
39 offense, the person is guilty of a class 6 felony.

40 ~~P.~~ Q. For the purposes of this section:

41 1. "Abuse" has the same meaning prescribed in section 8-201.

42 2. "Child abuse" means child abuse pursuant to section 13-3623.

43 3. "Neglect" has the same meaning prescribed in section 8-201.

- 1 4. "Reportable offense" means any of the following:
- 2 (a) Any offense listed in chapters 14 and 35.1 of this title or
- 3 section ~~13-3506.01~~ 13-3506.
- 4 (b) Surreptitious photographing, videotaping, filming or digitally
- 5 recording or viewing a minor pursuant to section 13-3019.
- 6 (c) Child sex trafficking pursuant to section 13-3212.
- 7 (d) Incest pursuant to section 13-3608.
- 8 (e) Unlawful mutilation pursuant to section 13-1214.