

REFERENCE TITLE: duty to report; requirements; interviews

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

HB 2605

Introduced by
Representatives Bolick: Blackman

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.

43 5. Any other person who has responsibility for the care or
44 treatment of the minor.

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

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

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

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

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

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

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

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

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

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

1 to the department of child safety. For the purposes of this subsection,
2 "newborn infant" means a newborn infant who is under thirty days of age.

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

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

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

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

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

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

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

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

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

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

10 M. If psychiatric records are requested pursuant to subsection G of
11 this section, the custodian of the records shall notify the attending
12 psychiatrist, who may excise from the records, before they are made
13 available:

- 14 1. Personal information about individuals other than the patient.
- 15 2. Information regarding specific diagnosis or treatment of a
16 psychiatric condition, if the attending psychiatrist certifies in writing
17 that release of the information would be detrimental to the patient's
18 health or treatment.

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

27 O. A person who violates this section is guilty of a class 1
28 misdemeanor, except if the failure to report involves a reportable
29 offense, the person is guilty of a class 6 felony.

30 P. For the purposes of this section:

- 31 1. "Abuse" has the same meaning prescribed in section 8-201.
- 32 2. "Child abuse" means child abuse pursuant to section 13-3623.
- 33 3. "Neglect" has the same meaning prescribed in section 8-201.
- 34 4. "Reportable offense" means any of the following:
 - 35 (a) Any offense listed in chapters 14 and 35.1 of this title or
36 section ~~13-3506.01~~ 13-3506.
 - 37 (b) Surreptitious photographing, videotaping, filming or digitally
38 recording or viewing a minor pursuant to section 13-3019.
 - 39 (c) Child sex trafficking pursuant to section 13-3212.
 - 40 (d) Incest pursuant to section 13-3608.
 - 41 (e) Unlawful mutilation pursuant to section 13-1214.