

REFERENCE TITLE: substance exposure; pregnant women; neglect

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2530

Introduced by
Representatives Jones: McGarr, Senator Wadsack

AN ACT

AMENDING SECTION 8-455, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-818; AMENDING SECTIONS 8-819, 8-882 AND 13-3620, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 6, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-701; RELATING TO CHILD NEGLECT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-455, Arizona Revised Statutes, is amended to
3 read:

4 8-455. Centralized intake hotline; purposes; report of
5 possible crime; DCS report; risk assessment tools;
6 access to information; public awareness; definitions

7 A. The department shall operate and maintain a centralized intake
8 hotline to protect children by receiving at all times communications
9 concerning suspected abuse or neglect. If a person communicates suspected
10 abuse or neglect to a department employee other than through the hotline,
11 the employee shall refer the person or communication to the hotline.

12 B. The hotline is the first step in the safety assessment and
13 investigation process and must be operated to:

14 1. Record communications made concerning suspected abuse or
15 neglect.

16 2. Immediately take steps necessary to identify and locate prior
17 communications and DCS reports related to the current communication using
18 the department's data system and the central registry system of this
19 state.

20 3. Quickly and efficiently provide information to a law enforcement
21 agency or prepare a DCS report as required by this section.

22 4. Determine the proper initial priority level of investigation
23 based on the report screening assessment and direct the DCS report to the
24 appropriate part of the department based on this determination.

25 C. If a communication provides a reason to believe that a criminal
26 offense has been committed and the communication does not meet the
27 criteria for a DCS report, the hotline worker shall immediately provide
28 the information to the appropriate law enforcement agency.

29 D. A hotline worker shall prepare a DCS report if the identity or
30 current location of the child victim, the child's family or the person
31 suspected of abuse or neglect is known or can be reasonably ascertained
32 and all of the following are alleged:

33 1. The suspected conduct would constitute abuse or neglect.

34 2. The suspected victim of the conduct is under eighteen years of
35 age.

36 3. The suspected victim of the conduct is a resident of or present
37 in this state.

38 4. The person suspected of committing the abuse or neglect is the
39 parent, guardian or custodian of the victim or an adult member of the
40 victim's household.

41 E. Except for criminal conduct allegations, the department is not
42 required to prepare a DCS report if all of the following apply:

43 1. The suspected conduct occurred more than three years before the
44 communication to the hotline.

1 2. There is no information or indication that a child is currently
2 being abused or neglected.

3 F. ON RECEIPT OF A COMMUNICATION INVOLVING SUBSTANCE USE BY A
4 PREGNANT WOMAN, THE DEPARTMENT OF CHILD SAFETY SHALL REFER THE PREGNANT
5 WOMAN TO THE DEPARTMENT OF HEALTH SERVICES FOR REFERRAL TO A PROVIDER FOR
6 SUBSTANCE USE TREATMENT. THE RECEIPT OF A COMMUNICATION INVOLVING
7 SUBSTANCE USE BY A PREGNANT WOMAN MAY NOT RESULT IN AN INVESTIGATION OF
8 ABUSE OR NEGLECT.

9 ~~F.~~ G. Investigations of DCS reports shall be conducted as provided
10 in section 8-456 except for investigations containing allegations of
11 criminal conduct, which shall be conducted as provided in section 8-471.

12 ~~G.~~ H. The department is not required to prepare a DCS report
13 concerning alleged abuse or neglect if the alleged act or acts occurred in
14 a foreign country and the child is in the custody of the federal
15 government.

16 ~~H.~~ I. The department shall develop and train hotline workers to
17 use uniform risk assessment tools to determine:

18 1. Whether the suspected conduct constitutes abuse or neglect and
19 the severity of the suspected abuse or neglect.

20 2. Whether the suspected abuse or neglect involves criminal
21 conduct, even if the communication does not result in the preparation of a
22 DCS report.

23 3. The appropriate investigative track for referral based on the
24 risk to the child's safety.

25 ~~I.~~ J. A DCS report must include, if available, all of the
26 following:

27 1. The name, address or contact information for the person making
28 the communication.

29 2. The name, address and other location or contact information for
30 the parent, guardian or custodian of the child or other adult member of
31 the child's household who is suspected of committing the abuse or neglect.

32 3. The name, address and other location or contact information for
33 the child.

34 4. The nature and extent of the indications of the child's abuse or
35 neglect, including any indication of physical injury.

36 5. Any information regarding possible prior abuse or neglect,
37 including reference to any communication or DCS report involving the
38 child, the child's siblings or the person suspected of committing the
39 abuse or neglect.

40 ~~J.~~ K. Information gathered through the hotline must be made
41 available to an employee of the department in order to perform the
42 employee's duties. The office of child welfare investigations and the
43 inspections bureau must have immediate access to all records of the
44 hotline.

1 ~~K.~~ L. A representative of the:
2 1. Office of child welfare investigations must be embedded in the
3 hotline to carry out the purposes of section 8-471.
4 2. Inspections bureau must be embedded in the hotline to carry out
5 the purposes of section 8-458.
6 ~~L.~~ M. The department shall publicize the availability and the
7 purposes of the centralized intake hotline.
8 ~~M.~~ N. For the purposes of this section:
9 1. "Centralized intake hotline" means the system developed pursuant
10 to this section regardless of the communication methods or technologies
11 used to implement the system.
12 2. "Criminal offense" means an allegation of conduct against a
13 child by a person other than a parent, guardian or custodian of the child
14 victim or another adult member of the child's household that, if true,
15 would constitute a felony offense.
16 Sec. 2. Title 8, chapter 4, article 8, Arizona Revised Statutes, is
17 amended by adding section 8-818, to read:
18 8-818. Prenatal substance use; services and support
19 ON A FINDING OF A PREGNANT WOMAN USING A DANGEROUS DRUG OR NARCOTIC
20 DRUG AS DEFINED IN SECTION 13-3401 AND SUBJECT TO THE REPORTING
21 REQUIREMENTS PRESCRIBED IN SECTION 13-3620, A HEALTH CARE PROFESSIONAL WHO
22 IS LICENSED OR CERTIFIED PURSUANT TO TITLE 32 SHALL REFER THE WOMAN TO
23 SUBSTANCE USE SERVICES AND SUPPORT TO FACILITATE MATERNAL AND INFANT
24 SAFETY.
25 Sec. 3. Section 8-819, Arizona Revised Statutes, is amended to
26 read:
27 8-819. Determination of neglect
28 In determining if a child is neglected, consideration shall be given
29 to:
30 1. The drug or alcohol abuse of the child's parent, guardian or
31 custodian.
32 2. The use by the mother of a dangerous drug, a narcotic drug or
33 alcohol during pregnancy if the child, at birth or within a year after
34 birth, is demonstrably adversely affected by this use. For the purposes
35 of this paragraph, "dangerous drug" and "narcotic drug" have the same
36 ~~meaning~~ MEANINGS prescribed in section 13-3401.
37 3. PROOF OF MATERNAL PARTICIPATION IN SUBSTANCE USE TREATMENT
38 CERTIFIED BY A HEALTH CARE PROFESSIONAL WHO IS REGULATED PURSUANT TO TITLE
39 32 PURSUANT TO SECTION 8-818.
40 Sec. 4. Section 8-882, Arizona Revised Statutes, is amended to
41 read:
42 8-882. Program development
43 In assisting the development of community programs, the department
44 of child safety in partnership with the Arizona health care cost

1 containment system as joint administrators of the program shall consider
2 the following issues:

3 1. The determination of eligibility and a screening process to
4 identify:

5 (a) A parent, guardian or custodian of a child who is named in a
6 report to the department as a victim of abuse or neglect and whose
7 substance abuse is a significant barrier to maintaining, preserving or
8 reunifying the family.

9 (b) A person whose substance abuse is a significant barrier to
10 maintaining or obtaining employment if the person is receiving cash
11 assistance pursuant to title 46, chapter 2, article 5.

12 (c) A PREGNANT WOMAN WHOSE SUBSTANCE ABUSE PLACES HER UNBORN CHILD
13 AT RISK OF PRENATAL SUBSTANCE EXPOSURE.

14 2. Training and technical assistance to be provided to communities
15 for developing and providing the programs.

16 3. Collaboration among and integration with public and private
17 agencies, programs, service providers, advocates and consumers.

18 4. Coordination and integration of funding sources to meet
19 prevention, treatment and other service needs.

20 5. The scope of services to be provided that are family centered
21 and that fit within the following categories:

22 (a) Substance abuse screening and assessment.

23 (b) Treatment referral.

24 (c) Treatment services.

25 (d) Aftercare.

26 (e) Service coordination.

27 (f) Other services necessary to achieve the outcome goals
28 identified in section 8-884.

29 6. Procedures for sharing information to ensure the well-being of a
30 child and the person being treated while maintaining confidentiality as
31 otherwise prescribed by statute. These procedures shall include
32 requirements for treatment providers to keep any court timely informed of
33 the nature and status of treatment for a parent, guardian or custodian of
34 a child who is the subject of a dependency action before the court.

35 Sec. 5. Section 13-3620, Arizona Revised Statutes, is amended to
36 read:

37 13-3620. Duty to report abuse, physical injury, neglect and
38 denial or deprivation of medical or surgical care
39 or nourishment of minors; medical records;
40 exception; violation; classification; definitions

41 A. Any person who reasonably believes that a minor is or has been
42 the victim of physical injury, abuse, child abuse, a reportable offense or
43 neglect that appears to have been inflicted on the minor by other than
44 accidental means or that is not explained by the available medical history
45 as being accidental in nature or who reasonably believes there has been a

1 denial or deprivation of necessary medical treatment or surgical care or
2 nourishment with the intent to cause or allow the death of an infant who
3 is protected under section 36-2281 shall immediately report or cause
4 reports to be made of this information to a peace officer, to the
5 department of child safety or to a tribal law enforcement or social
6 services agency for any Indian minor who resides on an Indian reservation,
7 except if the report concerns a person who does not have care, custody or
8 control of the minor, the report shall be made to a peace officer only. A
9 member of the clergy, a Christian Science practitioner or a priest who has
10 received a confidential communication or a confession in that person's
11 role as a member of the clergy, as a Christian Science practitioner or as
12 a priest in the course of the discipline enjoined by the church to which
13 the member of the clergy, the Christian Science practitioner or the priest
14 belongs may withhold reporting of the communication or confession if the
15 member of the clergy, the Christian Science practitioner or the priest
16 determines that it is reasonable and necessary within the concepts of the
17 religion. This exemption applies only to the communication or confession
18 and not to personal observations the member of the clergy, the Christian
19 Science practitioner or the priest may otherwise make of the minor. For
20 the purposes of this subsection, "person" means:

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

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

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

28 4. School personnel, domestic violence victim advocates or sexual
29 assault victim advocates who develop the reasonable belief in the course
30 of their employment.

31 5. Any other person who has responsibility for the care or
32 treatment of the minor.

33 6. Any person who is employed as the immediate or next higher level
34 supervisor to or administrator of a person who is listed in paragraph 1,
35 2, 4 or 5 of this subsection and who develops the reasonable belief in the
36 course of the supervisor's or administrator's employment, except that if
37 the supervisor or administrator reasonably believes that the report has
38 been made by a person who is required to report pursuant to paragraph 1,
39 2, 4 or 5 of this subsection, the supervisor or administrator is not
40 required to report pursuant to this paragraph.

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

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

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

6 C. If a physician, psychologist or behavioral health professional
7 receives a statement from a person other than a parent, stepparent,
8 guardian or custodian of the minor during the course of providing sex
9 offender treatment that is not court ordered or that does not occur while
10 the offender is incarcerated in the state department of corrections or the
11 department of juvenile corrections, the physician, psychologist or
12 behavioral health professional may withhold the reporting of that
13 statement if the physician, psychologist or behavioral health professional
14 determines it is reasonable and necessary to accomplish the purposes of
15 the treatment.

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

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

20 2. The minor's age and the nature and extent of the minor's abuse,
21 child abuse, physical injury or neglect, including any evidence of
22 previous abuse, child abuse, physical injury or neglect.

23 3. Any other information that the person believes might be helpful
24 in establishing the cause of the abuse, child abuse, physical injury or
25 neglect.

26 E. A health care professional who is regulated pursuant to title 32
27 and who, after a routine newborn physical assessment of a newborn infant's
28 health status or following notification of positive toxicology screens of
29 a newborn infant, reasonably believes that the newborn infant may be
30 affected by the presence of alcohol or a drug listed in section 13-3401
31 shall immediately report this information, or cause a report to be made,
32 to the department of child safety. **IN ADDITION TO THE REPORTING
33 REQUIREMENTS PRESCRIBED IN THIS SUBSECTION, THE HEALTH CARE PROFESSIONAL
34 SHALL REFER THE WOMAN TO SUBSTANCE USE SERVICES AND SUPPORT PURSUANT TO
35 SECTION 8-818.** For the purposes of this subsection, "newborn infant"
36 means a newborn infant who is under thirty days of age.

37 F. Any person other than one required to report or cause reports to
38 be made under subsection A of this section who reasonably believes that a
39 minor is or has been a victim of abuse, child abuse, physical injury, a
40 reportable offense or neglect may report the information to a peace
41 officer or to the department of child safety, except if the report
42 concerns a person who does not have care, custody or control of the minor,
43 the report shall be made to a peace officer only.

1 G. A person who has custody or control of medical records of a
2 minor for whom a report is required or authorized under this section shall
3 make the records, or a copy of the records, available to a peace officer,
4 child welfare investigator or child safety worker investigating the
5 minor's neglect, child abuse, physical injury or abuse on written request
6 for the records signed by the peace officer, child welfare investigator or
7 child safety worker. Records disclosed pursuant to this subsection are
8 confidential and may be used only in a judicial or administrative
9 proceeding or investigation resulting from a report required or authorized
10 under this section.

11 H. When reports are received by a peace officer, the officer shall
12 immediately notify the department of child safety. Notwithstanding any
13 other statute, when the department receives these reports, it shall
14 immediately notify a peace officer in the appropriate jurisdiction.

15 I. Any person who is required to receive reports pursuant to
16 subsection A of this section may take or cause to be taken photographs of
17 the minor and the vicinity involved. Medical examinations of the involved
18 minor may be performed.

19 J. A person who furnishes a report, information or records required
20 or authorized under this section, or a person who participates in a
21 judicial or administrative proceeding or investigation resulting from a
22 report, information or records required or authorized under this section,
23 is immune from any civil or criminal liability by reason of that action
24 unless the person acted with malice or unless the person has been charged
25 with or is suspected of abusing or neglecting the child or children in
26 question.

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

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

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

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

36 L. In any civil or criminal litigation in which a child's neglect,
37 dependency, physical injury, abuse, child abuse or abandonment is an
38 issue, a member of the clergy, a Christian Science practitioner or a
39 priest shall not, without his consent, be examined as a witness concerning
40 any confession made to him in his role as a member of the clergy, a
41 Christian Science practitioner or a priest in the course of the discipline
42 enjoined by the church to which he belongs. This subsection does not
43 discharge a member of the clergy, a Christian Science practitioner or a
44 priest from the duty to report pursuant to subsection A of this section.

1 M. If psychiatric records are requested pursuant to subsection G of
2 this section, the custodian of the records shall notify the attending
3 psychiatrist, who may excise from the records, before they are made
4 available:

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

6 2. Information regarding specific diagnosis or treatment of a
7 psychiatric condition, if the attending psychiatrist certifies in writing
8 that release of the information would be detrimental to the patient's
9 health or treatment.

10 N. If any portion of a psychiatric record is excised pursuant to
11 subsection M of this section, a court, on application of a peace officer,
12 child welfare investigator or child safety worker, may order that the
13 entire record or any portion of the record that contains information
14 relevant to the reported abuse, child abuse, physical injury or neglect be
15 made available to the peace officer, child welfare investigator or child
16 safety worker investigating the abuse, child abuse, physical injury or
17 neglect.

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

21 P. For the purposes of this section:

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

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

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

25 4. "Reportable offense" means any of the following:

26 (a) Any offense listed in chapters 14 and 35.1 of this title or
27 section 13-3506.01.

28 (b) Surreptitious photographing, videotaping, filming or digitally
29 recording or viewing a minor pursuant to section 13-3019.

30 (c) Child sex trafficking pursuant to section 13-3212.

31 (d) Incest pursuant to section 13-3608.

32 (e) Unlawful mutilation pursuant to section 13-1214.

33 Sec. 6. Title 36, chapter 6, article 5, Arizona Revised Statutes,
34 is amended by adding section 36-701, to read:

35 36-701. Prenatal substance use; services and support

36 ON A FINDING OR REPORT TO THE DEPARTMENT OF A PREGNANT WOMAN USING A
37 DANGEROUS DRUG OR NARCOTIC DRUG AS DEFINED IN SECTION 13-3401 AND SUBJECT
38 TO THE REPORTING REQUIREMENTS PRESCRIBED IN SECTION 13-3620, A HEALTH CARE
39 PROFESSIONAL WHO IS LICENSED PURSUANT TO TITLE 32 SHALL REFER THE WOMAN TO
40 SUBSTANCE USE SERVICES AND SUPPORT TO FACILITATE MATERNAL AND INFANT
41 SAFETY.