

COMMITTEE ON APPROPRIATIONS
SENATE AMENDMENTS TO H.B. 2227
(Reference to House engrossed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 8-804, Arizona Revised Statutes, is amended to
3 read:

4 8-804. Central registry; notification; definition

5 A. The department shall maintain a central registry of reports of
6 child abuse and neglect that are substantiated and the outcome of the
7 investigation of these reports made under this article. A finding made by
8 a court pursuant to section 8-844, subsection C that a child is dependent
9 based on an allegation of abuse or neglect shall be recorded as a
10 substantiated finding of abuse or neglect. The department shall
11 incorporate duplicate reports on the same incident in the original report
12 and shall not classify duplicate reports as new reports.

13 B. The department shall conduct central registry background checks
14 and shall use the information contained in the central registry only for
15 the following purposes:

16 1. As a factor to determine qualifications for any of the following:

17 (a) Foster home licensing.

18 (b) Adoptive parent certification.

19 (c) Individuals who apply for child welfare agency licensing.

20 (d) Child care home certification.

21 (e) Registration of unregulated child care homes with the child care
22 resource and referral system.

23 (f) Home and community based services certification for services to
24 children or vulnerable adults.

1 (g) An adult who works in a group home, residential treatment
2 center, shelter or other congregate care setting.

3 (h) ALL EMPLOYEES AND BOARD MEMBERS OF AN OUT-OF-SCHOOL TIME PROGRAM
4 PROVIDER THAT IS REGISTERED PURSUANT TO SECTION 36-895 AND THE VOLUNTEERS
5 OF THE OUT-OF-SCHOOL TIME PROGRAM PROVIDER WHO WORK WITH CHILDREN.

6 2. As a factor to determine qualifications for persons who are
7 employed or who are applying for employment with this state in positions
8 that provide direct service to children or vulnerable adults.

9 3. As a factor to determine qualifications for individuals who are
10 employed or who are applying for employment with a child welfare agency in
11 positions that provide direct service to children or vulnerable adults.

12 4. As a factor to determine qualifications for positions that
13 provide direct service to children or vulnerable adults for:

14 (a) Any person who applies for a contract with this state and that
15 person's employees.

16 (b) All employees of a contractor.

17 (c) A subcontractor of a contractor and the subcontractor's
18 employees.

19 (d) Prospective employees of the contractor or subcontractor at the
20 request of the prospective employer.

21 5. To provide information to licensees that do not contract with
22 this state regarding persons who are employed or seeking employment to
23 provide direct services to children pursuant to title 36, chapter 7.1.

24 6. To identify and review reports concerning individual children and
25 families, in order to facilitate the assessment of safety and risk.

26 7. To determine the nature and scope of child abuse and neglect in
27 this state and to provide statewide statistical and demographic information
28 concerning trends in child abuse and neglect.

29 8. To allow comparisons of this state's statistical data with
30 national data.

31 9. To comply with section 8-804.01, subsection B.

1 10. To provide information to licensees described in subsection D of
2 this section regarding persons who are employed or seeking employment to
3 provide direct services to children in a licensed behavioral health
4 residential facility.

5 11. To provide information to licensees regarding persons who are
6 employed or seeking employment in an intermediate care facility for
7 individuals with intellectual disabilities.

8 C. Licensees that do not contract with the state and that employ
9 persons who provide direct services to children pursuant to title 36,
10 chapter 7.1 must submit to the department of child safety in a manner
11 prescribed by the department of child safety information necessary to
12 conduct central registry background checks. The department of health
13 services shall verify whether licensees, pursuant to title 36, chapter 7.1,
14 have complied with the requirements of this subsection and any rules
15 adopted by the department of health services to implement this subsection.

16 D. Licensees that do not contract with this state, that contract
17 with the federal government, that receive only federal monies and that
18 employ persons who provide direct services to children in a licensed
19 behavioral health residential facility pursuant to title 36, chapter 4 must
20 submit to the department of child safety in a manner prescribed by the
21 department of child safety information necessary to conduct central
22 registry background checks. The department of child safety may charge a
23 fee to licensees to conduct central registry background checks pursuant to
24 this subsection. The department of health services shall verify whether
25 the licensees, pursuant to title 36, chapter 4, have complied with the
26 requirements of this subsection.

27 E. Licensees that employ persons to provide direct care in an
28 intermediate care facility for individuals with intellectual disabilities
29 must submit to the department of child safety in a manner prescribed by the
30 department of child safety information necessary to conduct central
31 registry background checks. The department of health services shall verify

1 whether the licensees, pursuant to title 36, chapter 4, comply with the
2 requirement of this subsection.

3 F. If the department of economic security received a report before
4 September 1, 1999 and determined that the report was substantiated, the
5 department of child safety shall maintain the report in the central
6 registry until eighteen years from the child victim's date of birth.

7 G. If the department of economic security or the department of child
8 safety received a report on or after September 1, 1999 and determined that
9 the report was substantiated, the department of child safety shall maintain
10 the report in the central registry for a maximum of twenty-five years after
11 the date of the report. If the department of child safety maintains
12 reports in the central registry for less than twenty-five years, the
13 department shall adopt rules to designate the length of time it must
14 maintain those reports in the central registry.

15 H. The department shall annually purge reports and investigative
16 outcomes received pursuant to the time frames prescribed in subsections F
17 and G of this section.

18 I. Any person who was the subject of a department investigation may
19 request confirmation that the department has purged information about the
20 person pursuant to subsection H of this section. On receipt of this
21 request, the department shall provide the person with written confirmation
22 that the department has no record containing identifying information about
23 that person.

24 J. The department shall notify a person, contractor or licensee
25 identified in subsection B, paragraph 4, subdivisions (a), (b) and (c) and
26 subsection B, paragraphs 5, 10 and 11 of this section who is disqualified
27 because of a central registry check conducted pursuant to subsection B of
28 this section that the person may apply to the board of fingerprinting for a
29 central registry exception pursuant to section 41-619.57.

30 K. Before being employed in a position that provides direct services
31 to children or vulnerable adults pursuant to subsection B, paragraphs 4, 5,
32 10 and 11 or subsections C, D and E of this section, employees shall

1 certify, under penalty of perjury, on forms that are provided by the
2 department whether an allegation of abuse or neglect was made against them
3 and was substantiated. The forms are confidential. If this certification
4 does not indicate a current investigation or a substantiated report of
5 abuse or neglect, the employee may provide direct services pending the
6 findings of the central registry check.

7 L. A person who is granted a central registry exception pursuant to
8 section 41-619.57 is not entitled to a contract, employment, licensure,
9 certification or other benefit because the person has been granted a
10 central registry exception.

11 M. An agency of this state that conducts central registry background
12 checks as a factor to determine qualifications for positions that provide
13 direct services to children or vulnerable adults shall publish a list of
14 disqualifying acts of substantiated abuse or neglect.

15 N. An agency of this state that conducts central registry background
16 checks may provide information contained in the central registry on all
17 reports of child abuse and neglect that are substantiated and the outcomes
18 of the investigations of the reports to carry out this section.
19 Identifying information regarding any person other than the perpetrator may
20 not be released. Information received pursuant to this section may not be
21 further disseminated unless authorized by law or court order.

22 O. The department may enter into an agreement with another state
23 agency to allow that agency to conduct the central registry background
24 checks required by this section.

25 P. For the purposes of this section, "intermediate care facility for
26 individuals with intellectual disabilities" has the same meaning prescribed
27 in section 36-551."

28 Renumber to conform

29 Page 2, line 8, before "This" insert "A."

30 Line 40, strike "DURING"

1 Page 3, line 5, strike the comma insert "AND"

2 Line 6, after the first "CHECKS" strike remainder of line

3 Between lines 37 and 38, insert:

4 "B. THE EXEMPTION IN SUBSECTION A, PARAGRAPH 7 OF THIS SECTION DOES
5 NOT APPLY TO A CHILD CARE PROVIDER THAT WOULD OTHERWISE MEET ANOTHER
6 EXEMPTION IN SUBSECTION A OF THIS SECTION OR THE REQUIREMENTS OF LICENSURE
7 UNLESS THE PROVIDER THAT QUALIFIES FOR THE EXEMPTION IN SUBSECTION A,
8 PARAGRAPH 7 OF THIS SECTION SUBMITS TO THE DEPARTMENT A NOTICE OF ITS
9 INTENT TO BE EXEMPT PURSUANT TO SUBSECTION A, PARAGRAPH 7 OF THIS SECTION
10 AND REGISTERED PURSUANT TO ARTICLE 2 OF THIS CHAPTER. A PROVIDER MAY NOT
11 BE EXEMPT PURSUANT TO SUBSECTION A, PARAGRAPH 7 OF THIS SECTION WITHOUT
12 BEING REGISTERED PURSUANT TO ARTICLE 2 OF THIS CHAPTER.

13 Sec. 4. Section 36-891, Arizona Revised Statutes, is amended to
14 read:

15 36-891. Civil penalty; inspection of child care facilities and
16 out-of-school time program providers; training
17 program

18 A. The director may impose a civil penalty on a person who violates
19 this article OR ARTICLE 2 OF THIS CHAPTER or rules adopted pursuant to this
20 article OR ARTICLE 2 OF THIS CHAPTER in an amount of not more than ~~one~~
21 ~~hundred dollars~~ \$100 for each violation. Each day that a violation occurs
22 constitutes a separate violation. The director may issue a notice that
23 includes the proposed amount of the civil penalty assessment. If a person
24 requests a hearing to appeal an assessment, the director shall not take
25 further action to enforce and collect the assessment until the hearing
26 process is complete. The director shall impose a civil penalty only for
27 those days on which the violation has been documented by the department.

28 B. In determining the civil penalty pursuant to subsection A OF THIS
29 SECTION, the department shall consider the following:

- 30 1. Repeated violations of statutes or rules.
31 2. Patterns of noncompliance.
32 3. Types of violations.

- 1 4. THE severity of violations.
- 2 5. THE potential for and occurrences of actual harm.
- 3 6. Threats to health and safety.
- 4 7. THE number of children affected by the violations.
- 5 8. THE number of violations.
- 6 9. THE size of the facility.
- 7 10. THE length of time during which violations have been occurring.

8 C. If a civil penalty imposed pursuant to subsection A OF THIS
9 SECTION is not paid, the attorney general or a county attorney shall file
10 an action to collect the civil penalty in a justice court or the superior
11 court in the county in which the violation occurred.

12 D. Unless a license OR REGISTRATION is revoked or suspended, the
13 director shall place the license of a child care facility OR REGISTRATION
14 OF AN OUT-OF-SCHOOL TIME PROGRAM PROVIDER subject to a civil penalty
15 pursuant to subsection A OF THIS SECTION on provisional license OR
16 REGISTRATION status for a period of time not to exceed six months in
17 addition to other penalties imposed pursuant to this article.

18 E. Civil penalties collected pursuant to this section shall be
19 deposited, pursuant to sections 35-146 and 35-147, in the state general
20 fund.

21 F. The department shall develop an instrument that documents
22 compliance and noncompliance of child care facilities according to the
23 criteria prescribed in its rules governing child care facility licensure
24 AND COMPLIANCE AND NONCOMPLIANCE OF REGISTERED OUT-OF-SCHOOL TIME PROGRAM
25 PROVIDERS ACCORDING TO CRITERIA PRESCRIBED IN THE DEPARTMENT'S RULES
26 GOVERNING OUT-OF-SCHOOL TIME PROGRAM PROVIDER REGISTRATION PURSUANT TO
27 SECTION 36-895. Blank copies of the instrument, which shall be in
28 standardized form, shall be made available to the public.

29 G. The director shall establish a child care facility training
30 program to provide training for child care facilities and users of child
31 care services, technical assistance materials for child care facilities and
32 information to enhance consumer awareness."

Senate Amendments to H.B. 2227

- 1 Renumber to conform
- 2 Page 3, line 43, strike "MAY" insert "SHALL"
- 3 Line 44, after "PROVIDER" insert "THAT APPLIES FOR REGISTRATION,"; after the
- 4 comma insert "SUBSECTION A,"
- 5 Page 4, line 24, strike the comma insert "AND"
- 6 Line 25, strike "AND CHILD ABUSE AND NEGLECT REGISTRY CHECKS"
- 7 Page 7, line 10, after the period insert "THE DEPARTMENT SHALL DEPOSIT, PURSUANT
- 8 TO SECTIONS 35-146 AND 35-147, NINETY PERCENT OF THE FEES COLLECTED
- 9 PURSUANT TO THIS SUBSECTION IN THE HEALTH SERVICES LICENSING FUND
- 10 ESTABLISHED BY SECTION 36-414 AND THE REMAINING TEN PERCENT IN THE STATE
- 11 GENERAL FUND."
- 12 Amend title to conform

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