

House Engrossed

~~TPI; exemption; utilities; residential customers~~
(now: case management; remote access; requirements)

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

HOUSE BILL 2213

AN ACT

AMENDING SECTIONS 8-515.03, 8-519, 8-801 AND 8-807, ARIZONA REVISED
STATUTES; RELATING TO CHILD SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-515.03, Arizona Revised Statutes, is amended
3 to read:

4 8-515.03. Duties of local foster care review boards

5 A. Local foster care review boards shall:

6 1. Review within six months of placement and at least once every
7 six months thereafter the case of each child who remains in out-of-home
8 placement and who is the subject of a dependency action to determine what
9 efforts have been made by the department and the agency with which the
10 child has been placed to carry out the case plan for the permanent
11 placement of such child. The review period for out-of-home placement
12 includes time that a child is in voluntary placement pursuant to section
13 8-806. The court and the department shall review a local foster care
14 review board's findings and recommendations at the next scheduled
15 dependency review hearing and the court shall address the board's
16 recommendations on the record. The department shall provide the local
17 foster care review board with written notice within ten business days of
18 the date of the receipt of the recommendation if the department intends to
19 accept or not implement the board's recommendations.

20 2. Allow a child's parents and grandparents to attend the local
21 foster care review board's review of the case. The parent or grandparent
22 may be accompanied at the review by an advocate of the parent's or
23 grandparent's choice.

24 3. Review any case assigned by the juvenile court for early review
25 of the case plan within sixty days after the removal of a child from that
26 child's home.

27 4. Submit to the juvenile court within thirty days following the
28 review its findings and recommendations regarding the efforts and progress
29 made by the department and agency to carry out the case plan, together
30 with any other recommendations it chooses to make regarding the
31 child. The findings and recommendations shall include the date of the
32 next review. A copy of such findings and recommendations shall be sent to
33 the division or the agency, if the juvenile court has awarded custody of
34 the child to the agency, and to such other interested parties as the court
35 may require.

36 5. Encourage and facilitate the timely return of children to their
37 natural parents or, if the board finds that one or more of the grounds
38 listed in section 8-533 may exist, encourage the appropriate agency to
39 initiate such procedures as would make the child eligible for adoption,
40 followed by a maximum effort by the agency to place the child for
41 adoption.

42 6. Encourage the department and all agencies involved in placing
43 children in out-of-home placement to exert all possible efforts to make
44 arrangements for permanent plans for children for whom return to natural
45 parents or adoption is determined to be infeasible or impossible.

1 7. Promote and encourage the department and all agencies involved
2 in placing children in foster care to maximize stability and family
3 continuity for children in foster care by discouraging unnecessary changes
4 in the placement of foster children and by recruiting foster parents who
5 may be suitable and eligible as adoptive parents.

6 8. Assist the department and agencies in informing natural parents,
7 foster parents and other interested parties of their rights and
8 responsibilities with respect to any child in out-of-home placement.
9 Natural parents, foster parents and other interested parties may be
10 involved in the review process when appropriate.

11 9. Make recommendations to the state board regarding foster care
12 policies and procedures as they relate to the children assigned for their
13 review.

14 B. THE DEPARTMENT SHALL PROVIDE TO THE SUPREME COURT DIRECT REMOTE
15 ACCESS TO ALL AUTOMATED CASE MANAGEMENT SYSTEMS THAT ARE USED BY THE
16 DEPARTMENT FOR THE SUPREME COURT TO USE IN ASSISTING A LOCAL FOSTER CARE
17 REVIEW BOARD IN PERFORMING THE BOARD'S DUTIES. IF INFORMATION IS NOT
18 AVAILABLE THROUGH THE DEPARTMENT'S AUTOMATED CASE MANAGEMENT SYSTEMS, THE
19 DEPARTMENT SHALL PROVIDE THE SUPREME COURT WITH A HARD COPY OF ALL RECORDS
20 KEPT BY THE DEPARTMENT FOR THE SUPREME COURT TO USE IN ASSISTING A LOCAL
21 FOSTER CARE REVIEW BOARD IN PERFORMING THE BOARD'S DUTIES.

22 Sec. 2. Section 8-519, Arizona Revised Statutes, is amended to
23 read:

24 8-519. Records and reports

25 A. Each child welfare agency shall keep records regarding the
26 children in its care as the division prescribes and shall furnish to the
27 division, on request, such additional information as the division
28 requires.

29 B. The department shall provide information necessary for foster
30 care review boards to perform their statutory duties through ~~an automated~~
31 ~~information exchange. The department and the administrative office of the~~
32 ~~courts on behalf of the state foster care review board shall enter into a~~
33 ~~data sharing agreement to govern the parameters of the automated~~
34 ~~information exchange. On the request of a foster care review board,~~
35 DIRECT REMOTE ONLINE ACCESS TO ALL DCS INFORMATION AS DEFINED IN SECTION
36 8-801 IDENTIFIED BY THE FOSTER CARE REVIEW BOARD AS NECESSARY FOR THE
37 PERFORMANCE OF THE BOARD'S DUTIES. IF THE INFORMATION CONTAINED IN THE
38 RECORD IS NOT AVAILABLE IN AN AUTOMATED CASE MANAGEMENT SYSTEM USED BY THE
39 DEPARTMENT, THE DEPARTMENT SHALL FURNISH any HARD COPY record pertaining
40 to a case assigned to ~~such~~ A FOSTER CARE REVIEW board, ~~THAT IS NECESSARY~~
41 ~~FOR THE PERFORMANCE OF THE BOARD'S DUTIES AND THAT IS~~ kept by the division
42 or a child welfare agency, ~~shall be furnished~~ to the board.

1 C. All records and information in the possession of the foster care
2 review board regarding children and their parents or relatives shall be
3 deemed confidential and shall be disclosed only pursuant to this chapter
4 or by order of court.

5 D. A child welfare agency shall furnish a report of each placement
6 or withdrawal of each child to the division.

7 Sec. 3. Section 8-801, Arizona Revised Statutes, is amended to
8 read:

9 8-801. Definitions

10 In this article and articles 9, 10, 11, 12, 13 and 14 of this
11 chapter, unless the context otherwise requires:

12 1. "Child safety services" means a specialized child welfare
13 program that is administered by the department as provided in this chapter
14 and that investigates allegations of and seeks to prevent, intervene in
15 and treat abuse, and neglect, to promote the well-being of the child in a
16 permanent home and to coordinate services to strengthen the family.

17 2. "Child safety worker" or "worker" means a person who has been
18 selected by and trained under the requirements prescribed by the
19 department and who assists in carrying out the provisions of this article.

20 3. "DCS INFORMATION":

21 (a) INCLUDES ALL INFORMATION THE DEPARTMENT GATHERS DURING THE
22 COURSE OF AN INVESTIGATION CONDUCTED UNDER THIS CHAPTER FROM THE TIME A
23 FILE IS OPENED AND UNTIL IT IS CLOSED.

24 (b) DOES NOT INCLUDE INFORMATION THAT IS CONTAINED IN CHILD WELFARE
25 AGENCY LICENSING RECORDS.

26 ~~3.~~ 4. "In-home intervention" means a program of services provided
27 pursuant to article 14 of this chapter while the child is still in the
28 custody of the parent, guardian or custodian.

29 ~~4.~~ 5. "Relative" has the same meaning prescribed in section 8-501.

30 Sec. 4. Section 8-807, Arizona Revised Statutes, is amended to
31 read:

32 8-807. DCS information; public record; use; confidentiality;
33 violation; classification

34 A. DCS information shall be maintained by the department as
35 required by federal law as a condition of the allocation of federal monies
36 to this state. All exceptions for the public release of DCS information
37 shall be construed as openly as possible under federal law.

38 B. The department, or a person who receives DCS information
39 pursuant to this subsection, shall provide DCS information to a federal
40 agency, a state agency, a tribal agency, a county or municipal agency, a
41 law enforcement agency, a prosecutor, an attorney or a guardian ad litem
42 representing a child victim of crime pursuant to article II, section 2.1,
43 Constitution of Arizona, a school, a community service provider, a
44 contract service provider or any other person that is providing services

1 pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this
2 chapter:

3 1. To meet its duties to provide for the safety and permanency of a
4 child, provide services to a parent, guardian or custodian or provide
5 services to family members to strengthen the family pursuant to this
6 article or article 9, 10, 11, 12, 13 or 14 of this chapter.

7 2. To enforce or prosecute any violation involving child abuse or
8 neglect or to assert the rights of the child as a victim of a crime.

9 3. To provide information to a defendant after a criminal charge
10 has been filed as required by an order of the criminal court.

11 4. To help investigate and prosecute any violation involving
12 domestic violence as defined in section 13-3601 or violent sexual assault
13 as prescribed in section 13-1423.

14 C. The department shall disclose DCS information to a court, a
15 party in a dependency or termination of parental rights proceeding or the
16 party's attorney, the foster care review board or a court appointed
17 special advocate for the purposes of and as prescribed in this title.

18 D. The department shall disclose DCS information to a domestic
19 relations, family or conciliation court if the DCS information is
20 necessary to promote the safety and well-being of children. The court
21 shall notify the parties that it has received the DCS information.

22 E. A person or agent of a person who is the subject of DCS
23 information shall have access to DCS information concerning that person.

24 F. The department may provide:

25 1. DCS information to confirm, clarify, correct or supplement
26 information concerning an allegation or actual instance of child abuse or
27 neglect that has been made public by a source or sources outside the
28 department.

29 2. DCS information to a person who is conducting bona fide
30 research, the results of which might provide DCS information that is
31 beneficial in improving the department.

32 3. Access to DCS information to the parent, guardian or custodian
33 of a child if the DCS information is reasonably necessary to promote the
34 safety, permanency and well-being of the child.

35 4. DCS information if an employee of the department has a
36 reasonable belief that exigent circumstances exist. For the purposes of
37 this paragraph, "exigent circumstances" means a condition or situation in
38 which the death of or serious injury to a child will likely result in the
39 near future without immediate intervention.

40 G. The department shall disclose DCS information to a county
41 medical examiner or an alternate medical examiner directing an
42 investigation into the circumstances surrounding a death pursuant to
43 section 11-593.

44 H. Access to DCS information in the central registry shall be
45 provided as prescribed in section 8-804.

1 I. To provide oversight of the department, the department shall
2 provide access to DCS information to the following persons, if the DCS
3 information is reasonably necessary for the person to perform the person's
4 official duties:

5 1. Federal or state auditors.

6 2. Persons conducting any accreditation deemed necessary by the
7 department.

8 3. A standing committee of the legislature or a committee appointed
9 by the president of the senate or the speaker of the house of
10 representatives for purposes of conducting investigations related to the
11 legislative oversight of the department. This information shall not be
12 further disclosed unless a court has ordered the disclosure of this
13 information, the information has been disclosed in a public or court
14 record, or the information has been disclosed in the course of a public
15 meeting or court proceeding.

16 4. A legislator who requests DCS information in the regular course
17 of the legislator's duties. A legislator may discuss this information
18 with another legislator if the other legislator has signed the form
19 prescribed in subdivision (d) of this paragraph in regard to the specific
20 file that will be discussed. This information shall not be further
21 disclosed unless a court has ordered the disclosure of this information,
22 the information has been disclosed in a public or court record, or the
23 information has been disclosed in the course of a public meeting or court
24 proceeding. To request a file pursuant to this paragraph:

25 (a) The legislator shall submit a written request for DCS
26 information to the presiding officer of the body of which the state
27 legislator is a member. The request shall state the name of the person
28 whose case file is to be reviewed and any other information that will
29 assist the department in locating the file. The presiding officer may
30 authorize a legislative staff member to attend with the legislator any
31 meeting to review the file.

32 (b) The presiding officer shall forward the request to the
33 department within five working days of the receipt of the request.

34 (c) The department shall make the necessary arrangements for the
35 legislator to review the file at an office of the department, chosen by
36 the legislator, within ten working days.

37 (d) The legislator and staff member shall sign a form, consistent
38 with the requirements of this paragraph and paragraph 3 of this
39 subsection, before reviewing the file, that outlines the confidentiality
40 laws governing department files and penalties for further release of the
41 information.

42 5. A citizen review panel as prescribed by federal law, a child
43 fatality review team as provided in title 36, chapter 35 and the office of
44 ombudsman-citizens aide.

1 6. An independent oversight committee established pursuant to
2 section 41-3801.

3 7. The governor who shall not disclose any information unless a
4 court has ordered the disclosure of the information, the information has
5 been disclosed in a public or court record or the information has been
6 disclosed in the course of a public meeting or court proceeding.

7 J. A person who has been denied DCS information regarding a
8 fatality or near fatality caused by abuse, abandonment or neglect pursuant
9 to subsection L of this section or section 8-807.01 may bring a special
10 action pursuant to section 39-121.02 in the superior court to order the
11 department to release that DCS information. A legislator has standing to
12 bring or to join a special action regarding the release of DCS information
13 or to challenge the redaction of released DCS information. The plaintiff
14 shall provide notice to the county attorney, who has standing and may
15 participate in the action. The court shall review the requested records
16 in camera and order disclosure consistent with subsections A and L of this
17 section and section 8-807.01. The court shall take reasonable steps to
18 prevent any clearly unwarranted invasions of privacy and protect the
19 privacy and dignity of victims of crime pursuant to article II, section
20 2.1, subsection C, Constitution of Arizona.

21 K. The department or a person who is not specifically authorized by
22 this section to obtain DCS information may petition a judge of the
23 superior court to order the department to release DCS information. The
24 plaintiff shall provide notice to the county attorney and to the attorney
25 and guardian ad litem for the child, who have standing and may participate
26 in the action. The court shall review the requested records in camera and
27 shall balance the rights of the parties who are entitled to
28 confidentiality pursuant to this section against the rights of the parties
29 who are seeking the release of the DCS information. The court may release
30 otherwise confidential DCS information only if the rights of the parties
31 seeking the DCS information and any benefits from releasing the DCS
32 information outweigh the rights of the parties who are entitled to
33 confidentiality and any harm that may result from releasing the DCS
34 information. The court shall take reasonable steps to prevent any clearly
35 unwarranted invasions of privacy and protect the privacy and dignity of
36 victims of crime pursuant to article II, section 2.1, subsection C,
37 Constitution of Arizona.

38 L. Except as provided in subsection M of this section, before it
39 releases records under this section or section 8-807.01, the department
40 shall take whatever precautions it determines are reasonably necessary to
41 protect the identity and safety of a person who reports child abuse or
42 neglect and to protect any other person if the department believes that
43 disclosure of the DCS information would be likely to endanger the life or
44 safety of any person. The department is not required by this section to
45 disclose DCS information if the department demonstrates that disclosure

1 would cause a specific, material harm to a department investigation. The
2 department is not required by this section to disclose DCS information if,
3 in consultation with the county attorney, the county attorney demonstrates
4 that disclosure would cause a specific, material harm to a criminal
5 investigation or prosecution.

6 M. A person who is the subject of an unfounded report or complaint
7 made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this
8 chapter and who believes that the report or complaint was made in bad
9 faith or with malicious intent may petition a judge of the superior court
10 to order the department to release the DCS information. The petition
11 shall specifically set forth reasons supporting the person's belief that
12 the report or complaint was made in bad faith or with malicious intent.
13 The court shall review the DCS information in camera and the person filing
14 the petition shall be allowed to present evidence in support of the
15 petition. If the court determines that there is a reasonable question of
16 fact as to whether the report or complaint was made in bad faith or with
17 malicious intent and that disclosure of the identity of the person making
18 the report or complaint would not be likely to endanger the life or safety
19 of the person making the report or complaint, it shall provide a copy of
20 the DCS information to the person filing the petition and the original DCS
21 information is subject to discovery in a subsequent civil action regarding
22 the making of the report or complaint.

23 N. The department shall provide the person who conducts a forensic
24 medical evaluation with any records the person requests, including social
25 history and family history regarding the child, the child's siblings and
26 the child's parents or guardians.

27 O. The department shall provide DCS information on request to a
28 prospective adoptive parent, foster parent or guardian, if the information
29 concerns a child the prospective adoptive parent, foster parent or
30 guardian seeks to adopt or provide care for.

31 P. If the department receives information that is confidential by
32 law, the department shall maintain the confidentiality of the information
33 as prescribed in the applicable law.

34 Q. A person may authorize the release of DCS information about the
35 person but may not waive the confidentiality of DCS information concerning
36 any other person.

37 R. The department may provide a summary of the outcome of a
38 department investigation to the person who reported the suspected child
39 abuse or neglect.

40 S. THE DEPARTMENT SHALL KEEP ALL DCS INFORMATION SEPARATE WITHIN
41 THE DEPARTMENT'S CASE MANAGEMENT INFORMATION SYSTEM. DCS INFORMATION
42 SHALL BE KEPT IN THE FOLLOWING CATEGORIES:

43 1. INFORMATION AND RECORDS THAT ARE PROTECTED BY ATTORNEY-CLIENT
44 PRIVILEGE.

1 2. INFORMATION AND RECORDS THAT ARE CONSIDERED ATTORNEY WORK
2 PRODUCTS.

3 3. BACKGROUND CHECK INFORMATION THAT IS OBTAINED FROM THE
4 DEPARTMENT OF PUBLIC SAFETY OR THE FEDERAL BUREAU OF INVESTIGATION. THIS
5 PARAGRAPH DOES NOT APPLY TO BACKGROUND CHECK INFORMATION THAT IS
6 INDEPENDENTLY VERIFIED BY THE DEPARTMENT OF CHILD SAFETY.

7 ~~S.~~ T. The department shall adopt rules to facilitate the
8 accessibility of DCS information.

9 ~~F.~~ U. The department or a person who receives DCS information
10 pursuant to subsection B of this section shall provide DCS information to
11 law enforcement and a court to protect the safety of any employee of the
12 department or the office of the attorney general or to protect a family
13 member of such an employee.

14 ~~H.~~ V. A person who receives DCS information shall maintain the
15 confidentiality of the information and shall not further disclose the
16 information unless the disclosure is authorized by law or a court order.

17 ~~V.~~ W. The department may charge a fee for copying costs required
18 to prepare DCS information for release pursuant to this section or section
19 8-807.01.

20 ~~W.~~ X. A person who violates this section is guilty of a class 2
21 misdemeanor.

22 ~~X. For the purposes of this section, "DCS information" includes all~~
23 ~~information the department gathers during the course of an investigation~~
24 ~~conducted under this chapter from the time a file is opened and until it~~
25 ~~is closed. DCS information does not include information that is contained~~
26 ~~in child welfare agency licensing records.~~

27 Y. IT IS THE PUBLIC POLICY OF THIS STATE THAT THE OFFICE OF THE
28 OMBUDSMAN-CITIZENS AIDE HAS DIRECT REMOTE ACCESS TO ALL DCS INFORMATION
29 WITHIN THE DEPARTMENT'S AUTOMATED CASE MANAGEMENT SYSTEM UNLESS EXPLICITLY
30 PROHIBITED BY LAW. TOWARD THIS END, ANY PERSON OR ENTITY CHARGED WITH
31 INTERPRETING THIS CHAPTER AND TITLE 41, CHAPTER 8, ARTICLE 5 SHALL
32 CONSTRUE THIS CHAPTER IN FAVOR OF OPEN ACCESS FOR THE OFFICE OF THE
33 OMBUDSMAN-CITIZENS AIDE, AND NOTHING IN THIS SECTION SHALL BE CONSTRUED AS
34 TO RESTRICT OR PERMIT THE DEPARTMENT TO RESTRICT THE ACCESS OF THE OFFICE
35 OF THE OMBUDSMAN-CITIZENS AIDE TO THE DEPARTMENT'S AUTOMATED CASE
36 MANAGEMENT SYSTEM OR ANY DCS INFORMATION. THIS SECTION DOES NOT ALLOW
37 PUBLIC DISCLOSURE AS PROHIBITED BY SECTION 41-1378, SUBSECTIONS F AND G.