

House Engrossed

child abuse; investigations; forensic interview

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

# HOUSE BILL 2516

AN ACT

AMENDING SECTIONS 8-821 AND 13-3620, ARIZONA REVISED STATUTES; RELATING TO  
CHILD ABUSE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-821, Arizona Revised Statutes, is amended to  
3 read:

4 8-821. Taking into temporary custody; medical examination;  
5 forensic interview; placement; interference;  
6 violation; classification; definition

7 A. A child shall be taken into temporary custody only pursuant to  
8 one of the following:

- 9 1. An order of the superior court.  
10 2. Subsection D of this section.  
11 3. The consent of the child's parent or guardian.

12 B. The superior court, on a dependency petition filed by an  
13 interested person, a peace officer, a child welfare investigator or a  
14 child safety worker under oath or on a sworn statement or testimony by a  
15 peace officer, a child welfare investigator or a child safety worker, may  
16 issue an order authorizing the department to take temporary custody of a  
17 child on finding that probable cause exists to believe that temporary  
18 custody is clearly necessary to protect the child from suffering abuse or  
19 neglect and it is contrary to the child's welfare to remain in the home.

20 C. If a child is taken into temporary custody pursuant to this  
21 section, the child's sibling shall also be taken into temporary custody  
22 only if independent probable cause exists to believe that temporary  
23 custody is clearly necessary to protect the child from suffering abuse or  
24 neglect.

25 D. A child may be taken into temporary custody without a court  
26 order by a peace officer, a child welfare investigator or a child safety  
27 worker if temporary custody is clearly necessary to protect the child  
28 because exigent circumstances exist.

29 E. In determining if a child should be taken into temporary  
30 custody, the court, peace officer, child welfare investigator or child  
31 safety worker shall take into consideration as a paramount concern the  
32 child's health and safety.

33 F. A person who takes a child into custody because an exigent  
34 circumstance described in subsection K, paragraph 2 of this section exists  
35 shall immediately have the child examined by a physician who is licensed  
36 pursuant to title 32, chapter 13 or 17 or a health care provider who is  
37 licensed pursuant to title 32 and who has specific training in evaluations  
38 of child abuse **OR HAVE THE CHILD FORENSICALLY INTERVIEWED BY A PERSON WHO**  
39 **IS TRAINED IN FORENSIC INTERVIEWING PURSUANT TO A PROTOCOL ESTABLISHED**  
40 **PURSUANT TO SECTION 8-817.** After the examination **OR INTERVIEW** the person  
41 shall release the child to the custody of the parent or guardian of the  
42 child unless the examination **OR INTERVIEW** reveals abuse. Temporary  
43 custody of a child taken into custody because an exigent circumstance  
44 described in subsection K, paragraph 2 of this section exists shall not  
45 exceed twelve hours.

1 G. A child who is taken into temporary custody pursuant to this  
2 article shall not be held in a police station, jail or lockup where adults  
3 or juveniles who are charged with or convicted of a crime are detained.

4 H. A child shall not remain in temporary custody for more than  
5 seventy-two hours excluding Saturdays, Sundays and holidays unless a  
6 dependency petition is filed.

7 I. To execute an order authorizing temporary custody, a peace  
8 officer may use reasonable force to enter any building in which the person  
9 named in the removal authorization is or is reasonably believed to be.

10 J. A person who knowingly interferes with the taking of a child  
11 into temporary custody under this section is guilty of a class 2  
12 misdemeanor.

13 K. For the purposes of this section, "exigent circumstances" means  
14 there is probable cause to believe that the child is likely to suffer  
15 serious harm in the time it would take to obtain a court order for removal  
16 and either of the following is true:

17 1. There is no less intrusive alternative to taking temporary  
18 custody of the child that would reasonably and sufficiently protect the  
19 child's health or safety.

20 2. Probable cause exists to believe that the child is a victim of  
21 sexual abuse or abuse involving serious physical injury that can be  
22 diagnosed only by a physician who is licensed pursuant to title 32,  
23 chapter 13 or 17 or a health care provider who is licensed pursuant to  
24 title 32 and who has specific training in evaluations of child abuse.

25 Sec. 2. Section 13-3620, Arizona Revised Statutes, is amended to  
26 read:

27 13-3620. Duty to report abuse, physical injury, neglect and  
28 denial or deprivation of medical or surgical care  
29 or nourishment of minors; medical records;  
30 exception; violation; classification; definitions

31 A. Any person who reasonably believes that a minor is or has been  
32 the victim of physical injury, abuse, child abuse, a reportable offense or  
33 neglect that appears to have been inflicted on the minor by other than  
34 accidental means or that is not explained by the available medical history  
35 as being accidental in nature or who reasonably believes there has been a  
36 denial or deprivation of necessary medical treatment or surgical care or  
37 nourishment with the intent to cause or allow the death of an infant who  
38 is protected under section 36-2281 shall immediately report or cause  
39 reports to be made of this information to a peace officer, to the  
40 department of child safety or to a tribal law enforcement or social  
41 services agency for any Indian minor who resides on an Indian reservation,  
42 except if the report concerns a person who does not have care, custody or  
43 control of the minor, the report shall be made to a peace officer only. A  
44 member of the clergy, a Christian Science practitioner or a priest who has  
45 received a confidential communication or a confession in that person's

1 role as a member of the clergy, as a Christian Science practitioner or as  
2 a priest in the course of the discipline enjoined by the church to which  
3 the member of the clergy, the Christian Science practitioner or the priest  
4 belongs may withhold reporting of the communication or confession if the  
5 member of the clergy, the Christian Science practitioner or the priest  
6 determines that it is reasonable and necessary within the concepts of the  
7 religion. This exemption applies only to the communication or confession  
8 and not to personal observations the member of the clergy, the Christian  
9 Science practitioner or the priest may otherwise make of the minor. For  
10 the purposes of this subsection, "person" means:

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

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

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

18 4. School personnel, domestic violence victim advocates or sexual  
19 assault victim advocates who develop the reasonable belief in the course  
20 of their employment.

21 5. Any other person who has responsibility for the care or  
22 treatment of the minor.

23 6. Any person who is employed as the immediate or next higher level  
24 supervisor to or administrator of a person who is listed in paragraph 1,  
25 2, 4 or 5 of this subsection and who develops the reasonable belief in the  
26 course of the supervisor's or administrator's employment, except that if  
27 the supervisor or administrator reasonably believes that the report has  
28 been made by a person who is required to report pursuant to paragraph 1,  
29 2, 4 or 5 of this subsection, the supervisor or administrator is not  
30 required to report pursuant to this paragraph.

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

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

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

41 C. If a physician, psychologist or behavioral health professional  
42 receives a statement from a person other than a parent, stepparent,  
43 guardian or custodian of the minor during the course of providing sex  
44 offender treatment that is not court ordered or that does not occur while  
45 the offender is incarcerated in the state department of corrections or the

1 department of juvenile corrections, the physician, psychologist or  
2 behavioral health professional may withhold the reporting of that  
3 statement if the physician, psychologist or behavioral health professional  
4 determines it is reasonable and necessary to accomplish the purposes of  
5 the treatment.

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

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

10 2. The minor's age and the nature and extent of the minor's abuse,  
11 child abuse, physical injury or neglect, including any evidence of  
12 previous abuse, child abuse, physical injury or neglect.

13 3. Any other information that the person believes might be helpful  
14 in establishing the cause of the abuse, child abuse, physical injury or  
15 neglect.

16 E. A health care professional who is regulated pursuant to title 32  
17 and who, after a routine newborn physical assessment of a newborn infant's  
18 health status or following notification of positive toxicology screens of  
19 a newborn infant, reasonably believes that the newborn infant may be  
20 affected by the presence of alcohol or a drug listed in section 13-3401  
21 shall immediately report this information, or cause a report to be made,  
22 to the department of child safety. For the purposes of this subsection,  
23 "newborn infant" means a newborn infant who is under thirty days of age.

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

31 G. A person who has custody or control of medical records of a  
32 minor for whom a report is required or authorized under this section shall  
33 make the records, or a copy of the records, available to a peace officer,  
34 child welfare investigator or child safety worker investigating the  
35 minor's neglect, child abuse, physical injury or abuse on written request  
36 for the records signed by the peace officer, child welfare investigator or  
37 child safety worker. Records disclosed pursuant to this subsection are  
38 confidential and may be used only in a judicial or administrative  
39 proceeding or investigation resulting from a report required or authorized  
40 under this section.

41 H. When reports are received by a peace officer, the officer shall  
42 immediately notify the department of child safety. Notwithstanding any  
43 other statute, when the department receives these reports, it shall  
44 immediately notify a peace officer in the appropriate jurisdiction.

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

5 J. A person who furnishes a report, information or records required  
6 or authorized under this section, or a person who participates in a  
7 judicial or administrative proceeding or investigation resulting from a  
8 report, information or records required or authorized under this section,  
9 is immune from any civil or criminal liability by reason of that action  
10 unless the person acted with malice or unless the person has been charged  
11 with or is suspected of abusing or neglecting the child or children in  
12 question.

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

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

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

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

22 L. In any civil or criminal litigation in which a child's neglect,  
23 dependency, physical injury, abuse, child abuse or abandonment is an  
24 issue, a member of the clergy, a Christian Science practitioner or a  
25 priest shall not, without his consent, be examined as a witness concerning  
26 any confession made to him in his role as a member of the clergy, a  
27 Christian Science practitioner or a priest in the course of the discipline  
28 enjoined by the church to which he belongs. This subsection does not  
29 discharge a member of the clergy, a Christian Science practitioner or a  
30 priest from the duty to report pursuant to subsection A of this section.

31 M. If psychiatric records are requested pursuant to subsection G of  
32 this section, the custodian of the records shall notify the attending  
33 psychiatrist, who may excise from the records, before they are made  
34 available:

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

36 2. Information regarding specific diagnosis or treatment of a  
37 psychiatric condition, if the attending psychiatrist certifies in writing  
38 that release of the information would be detrimental to the patient's  
39 health or treatment.

40 N. If any portion of a psychiatric record is excised pursuant to  
41 subsection M of this section, a court, on application of a peace officer,  
42 child welfare investigator or child safety worker, may order that the  
43 entire record or any portion of the record that contains information  
44 relevant to the reported abuse, child abuse, physical injury or neglect be  
45 made available to the peace officer, child welfare investigator or child

1 safety worker investigating the abuse, child abuse, physical injury or  
2 neglect.

3 0. A person who violates this section is guilty of a class 1  
4 misdemeanor, except if the failure to report involves a reportable  
5 offense, the person is guilty of a class 6 felony.

6 P. For the purposes of this section:

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

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

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

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

11 (a) Any offense listed in chapters 14 and 35.1 of this title or  
12 section ~~13-3506-01~~ 13-3506.

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

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

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

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