

Senate Engrossed House Bill

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