

Senate Engrossed House Bill

substance exposure; pregnant women; neglect

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

HOUSE BILL 2530

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 AND 13-3620, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 29, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2930.07; 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.~~ F. IF THE DEPARTMENT RECEIVES A COMMUNICATION INVOLVING SUBSTANCE
4 USE BY A PREGNANT WOMAN, THE DEPARTMENT SHALL PROVIDE THE CALLER WITH THE
5 CONTACT INFORMATION FOR THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.
6 THE DEPARTMENT SHALL TRANSFER THE CALL TO THE ARIZONA HEALTH CARE COST
7 CONTAINMENT SYSTEM, IF POSSIBLE. THE ARIZONA HEALTH CARE COST CONTAINMENT
8 SYSTEM SHALL REFER THE WOMAN TO A PROVIDER FOR SUBSTANCE USE TREATMENT.
9 THE RECEIPT OF A COMMUNICATION INVOLVING SUBSTANCE USE BY A PREGNANT WOMAN
10 MAY NOT RESULT IN AN INVESTIGATION OF ABUSE OR NEGLECT. NOTWITHSTANDING
11 ANY OTHER LAW, RECEIPT OF A COMMUNICATION PURSUANT TO THIS SUBSECTION MAY
12 NOT BE MAINTAINED BY THE DEPARTMENT.

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

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

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

22 1. Whether the suspected conduct constitutes abuse or neglect and
23 the severity of the suspected abuse or neglect.

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

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

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

31 1. The name, address or contact information for the person making
32 the communication.

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

36 3. The name, address and other location or contact information for
37 the child.

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

40 5. Any information regarding possible prior abuse or neglect,
41 including reference to any communication or DCS report involving the
42 child, the child's siblings or the person suspected of committing the
43 abuse or neglect.

44 ~~J.~~ K. Information gathered through the hotline must be made
45 available to an employee of the department in order to perform the

1 employee's duties. The office of child welfare investigations and the
2 inspections bureau must have immediate access to all records of the
3 hotline.

4 ~~K.~~ L. A representative of the:

5 1. Office of child welfare investigations must be embedded in the
6 hotline to carry out the purposes of section 8-471.

7 2. Inspections bureau must be embedded in the hotline to carry out
8 the purposes of section 8-458.

9 ~~L.~~ M. The department shall publicize the availability and the
10 purposes of the centralized intake hotline.

11 ~~M.~~ N. For the purposes of this section:

12 1. "Centralized intake hotline" means the system developed pursuant
13 to this section regardless of the communication methods or technologies
14 used to implement the system.

15 2. "Criminal offense" means an allegation of conduct against a
16 child by a person other than a parent, guardian or custodian of the child
17 victim or another adult member of the child's household that, if true,
18 would constitute a felony offense.

19 Sec. 2. Title 8, chapter 4, article 8, Arizona Revised Statutes, is
20 amended by adding section 8-818, to read:

21 8-818. Prenatal substance use; services and support

22 ON A FINDING OF A PREGNANT WOMAN USING ALCOHOL OR A DANGEROUS DRUG
23 OR NARCOTIC DRUG AS DEFINED IN SECTION 13-3401 AND SUBJECT TO THE
24 REPORTING REQUIREMENTS PRESCRIBED IN SECTION 13-3620, A HEALTH CARE
25 PROFESSIONAL WHO IS LICENSED OR CERTIFIED PURSUANT TO TITLE 32 SHALL, WITH
26 THE WOMAN'S CONSENT, REFER THE WOMAN TO SUBSTANCE USE SERVICES AND SUPPORT
27 TO FACILITATE MATERNAL AND INFANT SAFETY.

28 Sec. 3. Section 8-819, Arizona Revised Statutes, is amended to
29 read:

30 8-819. Determination of neglect

31 In determining if a child is neglected, consideration shall be given
32 to:

33 1. The drug or alcohol abuse of the child's parent, guardian or
34 custodian.

35 2. The use by the mother of a dangerous drug, a narcotic drug or
36 alcohol during pregnancy if the child, at birth or within a year after
37 birth, is demonstrably adversely affected by this use. For the purposes
38 of this paragraph, "dangerous drug" and "narcotic drug" have the same
39 ~~meaning~~ MEANINGS prescribed in section 13-3401.

40 3. PROOF THAT THE MOTHER WAS REFERRED FOR SUBSTANCE USE SERVICES
41 AND SUPPORT PURSUANT TO SECTION 8-818 AND PARTICIPATED IN SUBSTANCE USE
42 TREATMENT CERTIFIED BY A HEALTH CARE PROFESSIONAL WHO IS REGULATED
43 PURSUANT TO TITLE 32. PROOF OF THE MOTHER'S PARTICIPATION IN SUBSTANCE
44 USE TREATMENT MAY BE CONSIDERED A MITIGATING FACTOR IN DETERMINING
45 NEGLECT.

1 Sec. 4. Section 13-3620, Arizona Revised Statutes, is amended to
2 read:

3 13-3620. Duty to report abuse, physical injury, neglect and
4 denial or deprivation of medical or surgical care
5 or nourishment of minors; medical records;
6 exception; violation; classification; definitions

7 A. Any person who reasonably believes that a minor is or has been
8 the victim of physical injury, abuse, child abuse, a reportable offense or
9 neglect that appears to have been inflicted on the minor by other than
10 accidental means or that is not explained by the available medical history
11 as being accidental in nature or who reasonably believes there has been a
12 denial or deprivation of necessary medical treatment or surgical care or
13 nourishment with the intent to cause or allow the death of an infant who
14 is protected under section 36-2281 shall immediately report or cause
15 reports to be made of this information to a peace officer, to the
16 department of child safety or to a tribal law enforcement or social
17 services agency for any Indian minor who resides on an Indian reservation,
18 except if the report concerns a person who does not have care, custody or
19 control of the minor, the report shall be made to a peace officer only. A
20 member of the clergy, a Christian Science practitioner or a priest who has
21 received a confidential communication or a confession in that person's
22 role as a member of the clergy, as a Christian Science practitioner or as
23 a priest in the course of the discipline enjoined by the church to which
24 the member of the clergy, the Christian Science practitioner or the priest
25 belongs may withhold reporting of the communication or confession if the
26 member of the clergy, the Christian Science practitioner or the priest
27 determines that it is reasonable and necessary within the concepts of the
28 religion. This exemption applies only to the communication or confession
29 and not to personal observations the member of the clergy, the Christian
30 Science practitioner or the priest may otherwise make of the minor. For
31 the purposes of this subsection, "person" means:

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

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

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

39 4. School personnel, domestic violence victim advocates or sexual
40 assault victim advocates who develop the reasonable belief in the course
41 of their employment.

42 5. Any other person who has responsibility for the care or
43 treatment of the minor.

44 6. Any person who is employed as the immediate or next higher level
45 supervisor to or administrator of a person who is listed in paragraph 1,

1 2, 4 or 5 of this subsection and who develops the reasonable belief in the
2 course of the supervisor's or administrator's employment, except that if
3 the supervisor or administrator reasonably believes that the report has
4 been made by a person who is required to report pursuant to paragraph 1,
5 2, 4 or 5 of this subsection, the supervisor or administrator is not
6 required to report pursuant to this paragraph.

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

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

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

17 C. If a physician, psychologist or behavioral health professional
18 receives a statement from a person other than a parent, stepparent,
19 guardian or custodian of the minor during the course of providing sex
20 offender treatment that is not court ordered or that does not occur while
21 the offender is incarcerated in the state department of corrections or the
22 department of juvenile corrections, the physician, psychologist or
23 behavioral health professional may withhold the reporting of that
24 statement if the physician, psychologist or behavioral health professional
25 determines it is reasonable and necessary to accomplish the purposes of
26 the treatment.

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

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

31 2. The minor's age and the nature and extent of the minor's abuse,
32 child abuse, physical injury or neglect, including any evidence of
33 previous abuse, child abuse, physical injury or neglect.

34 3. Any other information that the person believes might be helpful
35 in establishing the cause of the abuse, child abuse, physical injury or
36 neglect.

37 E. A health care professional who is regulated pursuant to title 32
38 and who: ~~;~~

39 1. After a routine newborn physical assessment of a newborn
40 infant's health status ~~or following~~ AND notification of positive
41 toxicology screens of a newborn infant, reasonably believes that the
42 newborn infant may be affected by the presence of alcohol or a drug listed
43 in section 13-3401 shall immediately report this information, or cause a
44 report to be made, to the department of child safety. For the purposes of

1 this ~~subsection~~ PARAGRAPH, "newborn infant" means a newborn infant who is
2 under thirty days of age.

3 2. THROUGH CLINICAL INDICATORS IN THE PRENATAL PERIOD, INCLUDING
4 MATERNAL PRESENTATION OR POSITIVE TOXICOLOGY OR OTHER LABORATORY TESTS,
5 SUSPECTS THE USE OF ALCOHOL OR A DANGEROUS DRUG OR NARCOTIC DRUG AS
6 DEFINED IN SECTION 13-3401 SHALL, WITH THE WOMAN'S CONSENT, IMMEDIATELY
7 REFER THE WOMAN TO SUBSTANCE USE SERVICES AND SUPPORT PURSUANT TO SECTION
8 8-818. THE PRESENCE OF PRENATAL CLINICAL INDICATORS OR THE WOMAN'S
9 HISTORY OF SUBSTANCE USE OR PARTICIPATION IN SUBSTANCE USE SERVICES AND
10 SUPPORT ALONE MAY NOT BE THE BASIS OF A REPORT PURSUANT TO THIS SUBSECTION
11 OF SUSPECTED NEGLECT MADE TO THE DEPARTMENT OF CHILD SAFETY ON THE BIRTH
12 OF THE CHILD.

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

20 G. A person who has custody or control of medical records of a
21 minor for whom a report is required or authorized under this section shall
22 make the records, or a copy of the records, available to a peace officer,
23 child welfare investigator or child safety worker investigating the
24 minor's neglect, child abuse, physical injury or abuse on written request
25 for the records signed by the peace officer, child welfare investigator or
26 child safety worker. Records disclosed pursuant to this subsection are
27 confidential and may be used only in a judicial or administrative
28 proceeding or investigation resulting from a report required or authorized
29 under this section.

30 H. When reports are received by a peace officer, the officer shall
31 immediately notify the department of child safety. Notwithstanding any
32 other statute, when the department receives these reports, it shall
33 immediately notify a peace officer in the appropriate jurisdiction.

34 I. Any person who is required to receive reports pursuant to
35 subsection A of this section may take or cause to be taken photographs of
36 the minor and the vicinity involved. Medical examinations of the involved
37 minor may be performed.

38 J. A person who furnishes a report, information or records required
39 or authorized under this section, or a person who participates in a
40 judicial or administrative proceeding or investigation resulting from a
41 report, information or records required or authorized under this section,
42 is immune from any civil or criminal liability by reason of that action
43 unless the person acted with malice or unless the person has been charged
44 with or is suspected of abusing or neglecting the child or children in
45 question.

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

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

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

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

10 L. In any civil or criminal litigation in which a child's neglect,
11 dependency, physical injury, abuse, child abuse or abandonment is an
12 issue, a member of the clergy, a Christian Science practitioner or a
13 priest shall not, without his consent, be examined as a witness concerning
14 any confession made to him in his role as a member of the clergy, a
15 Christian Science practitioner or a priest in the course of the discipline
16 enjoined by the church to which he belongs. This subsection does not
17 discharge a member of the clergy, a Christian Science practitioner or a
18 priest from the duty to report pursuant to subsection A of this section.

19 M. If psychiatric records are requested pursuant to subsection G of
20 this section, the custodian of the records shall notify the attending
21 psychiatrist, who may excise from the records, before they are made
22 available:

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

24 2. Information regarding specific diagnosis or treatment of a
25 psychiatric condition, if the attending psychiatrist certifies in writing
26 that release of the information would be detrimental to the patient's
27 health or treatment.

28 N. If any portion of a psychiatric record is excised pursuant to
29 subsection M of this section, a court, on application of a peace officer,
30 child welfare investigator or child safety worker, may order that the
31 entire record or any portion of the record that contains information
32 relevant to the reported abuse, child abuse, physical injury or neglect be
33 made available to the peace officer, child welfare investigator or child
34 safety worker investigating the abuse, child abuse, physical injury or
35 neglect.

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

39 P. For the purposes of this section:

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

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

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

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

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

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

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

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

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

6 Sec. 5. Title 36, chapter 29, article 1, Arizona Revised Statutes,
7 is amended by adding section 36-2930.07, to read:

8 36-2930.07. Prenatal substance use; services and support

9 ON A FINDING OR REPORT TO THE DEPARTMENT OF CHILD SAFETY OF A
10 PREGNANT WOMAN USING ALCOHOL OR A DANGEROUS DRUG OR NARCOTIC DRUG AS
11 DEFINED IN SECTION 13-3401, A HEALTH CARE PROFESSIONAL WHO IS LICENSED
12 PURSUANT TO TITLE 32 SHALL REFER THE WOMAN TO SUBSTANCE USE SERVICES AND
13 SUPPORT TO FACILITATE MATERNAL AND INFANT SAFETY.