

REFERENCE TITLE: DCS; abuse; neglect; reporter identity

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

## **SB 1409**

Introduced by  
Senator Wadsack: Representative Jones

AN ACT

AMENDING SECTIONS 8-803 AND 13-3620, ARIZONA REVISED STATUTES; RELATING TO  
CHILD WELFARE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-803, Arizona Revised Statutes, is amended to  
3 read:

4 8-803. Limitation of authority; duty to inform

5 A. On initial contact with a parent, guardian or custodian under  
6 investigation pursuant to this article, a child safety worker shall inform  
7 the family, both verbally and in writing, making reasonable efforts to  
8 receive written acknowledgement from the parent, guardian, or custodian,  
9 of receipt of all of the following information:

10 1. That the family is under investigation by the department.

11 2. The specific complaint or allegation made against that person.

12 3. That the worker has no legal authority to compel the family to  
13 cooperate with the investigation or to receive child safety services  
14 offered pursuant to the investigation.

15 4. The worker's authority to petition the juvenile court for a  
16 determination that a child is dependent.

17 5. The person's right to file a complaint with the  
18 ombudsman-citizens aide pursuant to section 41-1376. The worker shall  
19 provide the telephone number of the ombudsman-citizens aide.

20 6. The person's right to appeal determinations made by the  
21 department.

22 7. Information outlining parental rights under the laws of the  
23 state.

24 B. The child safety worker shall also inform the person about whom  
25 the report was made about that person's right to respond to the  
26 allegations either verbally or in writing, including any documentation,  
27 and to have this information considered in determining if the child is in  
28 need of child safety services. The worker shall tell the person that  
29 anything the person says or writes can be used in a court proceeding. If  
30 the person makes a verbal response, the worker shall include the response  
31 in the written report of the investigation. If the person makes a written  
32 response, including any documentation, the worker shall include this  
33 response and the documentation in the case file. Information provided in  
34 response to the allegations shall be considered during the investigation  
35 by the worker. The worker shall maintain the response and documentation  
36 in the case file and provide this information to the court before a  
37 hearing or trial relating to the dependency petition.

38 C. If the family declines to cooperate with the investigation or to  
39 accept or to participate in the offered services, or if the worker  
40 otherwise believes that the child should be adjudicated dependent, the  
41 worker may file with the juvenile court a petition requesting that the  
42 child in need of child safety services be adjudicated dependent.

43 D. Refusal to cooperate in the investigation or to participate in  
44 the offered services does not constitute grounds for temporary custody of

1 a child except if there is a clear necessity for temporary custody as  
2 provided in section 8-821.

3 E. NOTWITHSTANDING ANY OTHER LAW, IF THE DEPARTMENT FINDS THAT A  
4 REPORT OF ABUSE OR NEGLECT IS UNSUBSTANTIATED AND TERMINATES ITS  
5 INVESTIGATION, THE DEPARTMENT SHALL DISCLOSE TO THE PARENT, GUARDIAN OR  
6 CUSTODIAN WHO WAS THE SUBJECT OF THE INVESTIGATION THE IDENTITY OF THE  
7 PERSON WHO MADE THE REPORT OF ABUSE OR NEGLECT.

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

10 13-3620. Duty to report abuse, physical injury, neglect and  
11 denial or deprivation of medical or surgical care  
12 or nourishment of minors; medical records;  
13 exception; continuing education; violation;  
14 classification; definitions

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

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

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

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

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

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

7           6. Any person who is employed as the immediate or next higher level  
8 supervisor to or administrator of a person who is listed in paragraph 1,  
9 2, 4 or 5 of this subsection and who develops the reasonable belief in the  
10 course of the supervisor's or administrator's employment, except that if  
11 the supervisor or administrator reasonably believes that the report has  
12 been made by a person who is required to report pursuant to paragraph 1,  
13 2, 4 or 5 of this subsection, the supervisor or administrator is not  
14 required to report pursuant to this paragraph.

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

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

20           2. If a minor is of elementary school age, the physical injury  
21 occurs accidentally in the course of typical playground activity during a  
22 school day, occurs on the premises of the school that the minor attends  
23 and is reported to the legal parent or guardian of the minor and the  
24 school maintains a written record of the incident.

25           C. If a physician, psychologist or behavioral health professional  
26 receives a statement from a person other than a parent, stepparent,  
27 guardian or custodian of the minor during the course of providing sex  
28 offender treatment that is not court ordered or that does not occur while  
29 the offender is incarcerated in the state department of corrections or the  
30 department of juvenile corrections, the physician, psychologist or  
31 behavioral health professional may withhold the reporting of that  
32 statement if the physician, psychologist or behavioral health professional  
33 determines it is reasonable and necessary to accomplish the purposes of  
34 the treatment.

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

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

39           2. The minor's age and the nature and extent of the minor's abuse,  
40 child abuse, physical injury or neglect, including any evidence of  
41 previous abuse, child abuse, physical injury or neglect.

42           3. Any other information that the person believes might be helpful  
43 in establishing the cause of the abuse, child abuse, physical injury or  
44 neglect.

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

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

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

26 H. When reports are received by a peace officer, the officer shall  
27 immediately notify the department of child safety. Notwithstanding any  
28 other statute, when the department receives these reports, it shall  
29 immediately notify a peace officer in the appropriate jurisdiction.

30 I. Any person who is required to receive reports pursuant to  
31 subsection A of this section may take or cause to be taken photographs of  
32 the minor and the vicinity involved. Medical examinations of the involved  
33 minor may be performed.

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

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

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

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

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

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

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

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

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

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

34           O. PERSONS WHO ARE REQUIRED TO REPORT PURSUANT TO SUBSECTION A OF  
35 THIS SECTION SHALL ANNUALLY PARTICIPATE IN CONTINUING EDUCATION ON METHODS  
36 OF IDENTIFYING SIGNS OF ABUSE AND FALSE REPORTING OF ABUSE.

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

40           ~~P.~~ Q. For the purposes of this section:

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

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

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

- 1           4. "Reportable offense" means any of the following:  
2           (a) Any offense listed in chapters 14 and 35.1 of this title or  
3 section 13-3506.01.  
4           (b) Surreptitious photographing, videotaping, filming or digitally  
5 recording or viewing a minor pursuant to section 13-3019.  
6           (c) Child sex trafficking pursuant to section 13-3212.  
7           (d) Incest pursuant to section 13-3608.  
8           (e) Unlawful mutilation pursuant to section 13-1214.