

(Section 23-371 not enacted — failed to obtain the three-fourths vote pursuant to article IV, part 1, section 1, Constitution of Arizona.)

Senate Engrossed

in loco parentis; prohibition

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

# SENATE BILL 1703

AN ACT

AMENDING SECTIONS 1-602, 15-101, 15-872, 23-235, ~~23-371~~, 25-409, 36-673, 36-674 AND 36-725, ARIZONA REVISED STATUTES; REPEALING SECTION 44-133, ARIZONA REVISED STATUTES; RELATING TO IN LOCO PARENTIS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 1-602, Arizona Revised Statutes, is amended to  
3 read:

4 1-602. Parents' bill of rights; governmental interference  
5 restricted; burden of proof; definition

6 A. All parental rights are exclusively reserved to a parent of a  
7 minor child without obstruction or interference from this state, any  
8 political subdivision of this state, any other governmental entity or any  
9 other institution, including:

10 1. The right to direct the education of the minor child.

11 2. All rights of parents identified in title 15, including the  
12 right to access and review all records relating to the minor child.

13 3. The right to direct the upbringing of the minor child.

14 4. The right to direct the moral or religious training of the minor  
15 child.

16 5. The right to make all health care decisions for the minor child,  
17 including rights pursuant to sections 15-873, 36-2271 and 36-2272, unless  
18 otherwise prohibited by law.

19 6. The right to request, access and review all written and  
20 electronic medical records of the minor child unless otherwise prohibited  
21 by law or unless the parent is the subject of an investigation of a crime  
22 committed against the minor child and a law enforcement official requests  
23 that the information not be released.

24 7. The right to consent in writing before a biometric scan of the  
25 minor child is made pursuant to section 15-109.

26 8. The right to consent in writing before any record of the minor  
27 child's blood or deoxyribonucleic acid is created, stored or shared,  
28 except as required by section 36-694, or before any genetic testing is  
29 conducted on the minor child pursuant to section 12-2803 unless authorized  
30 pursuant to section 13-610 or a court order.

31 9. The right to consent in writing before this state or any of its  
32 political subdivisions makes a video or voice recording of the minor  
33 child, unless the video or voice recording is made during or as a part of  
34 a court proceeding, by law enforcement officers during or as part of a law  
35 enforcement investigation, during or as part of an interview in a criminal  
36 or child safety services investigation or to be used solely for any of the  
37 following:

38 (a) Safety demonstrations, including the maintenance of order and  
39 discipline in the common areas of a school or on pupil transportation  
40 vehicles.

41 (b) A purpose related to a legitimate academic or extracurricular  
42 activity.

43 (c) A purpose related to regular classroom instruction.

44 (d) Security or surveillance of buildings or grounds.

45 (e) A photo identification card.

1           10. The right to be notified promptly if an employee of this state,  
2 any political subdivision of this state, any other governmental entity or  
3 any other institution suspects that a criminal offense has been committed  
4 against the minor child by someone other than a parent, unless the  
5 incident has first been reported to law enforcement and notifying the  
6 parent would impede a law enforcement or child safety services  
7 investigation. This paragraph does not create any new obligation for  
8 school districts and charter schools to report misconduct between students  
9 at school, such as fighting or aggressive play, that is routinely  
10 addressed as a student disciplinary matter by the school.

11           11. The right to obtain information about a child safety services  
12 investigation involving the parent pursuant to section 8-807.

13           B. This section does not authorize or allow a parent to engage in  
14 conduct that is unlawful or to abuse or neglect a child in violation of  
15 the laws of this state. This section does not prohibit courts, law  
16 enforcement officers or employees of a government agency responsible for  
17 child welfare from acting in their official capacity within the scope of  
18 their authority. This section does not prohibit a court from issuing an  
19 order that is otherwise allowed by law.

20           C. Any attempt to encourage or coerce a minor child to withhold  
21 information from the child's parent is grounds for discipline of an  
22 employee of this state, any political subdivision of this state, any other  
23 governmental entity or any other institution, except for law enforcement  
24 personnel.

25           D. Unless those rights have been legally waived or legally  
26 terminated, parents have inalienable rights that are more comprehensive  
27 than those listed in this section. This chapter does not prescribe all  
28 rights of parents or preempt or foreclose claims or remedies in support of  
29 parental rights that are available under the constitution, statutes or  
30 common law of this state. Unless otherwise required by law, the rights of  
31 parents of minor children shall not be limited or denied. **UNLESS**  
32 **OTHERWISE REQUIRED BY LAW, AN EMPLOYEE OF THIS STATE, OF ANY POLITICAL**  
33 **SUBDIVISION OF THIS STATE, OF ANY OTHER GOVERNMENTAL ENTITY OR OF ANY**  
34 **OTHER INSTITUTION MAY NOT STAND IN LOCO PARENTIS TO A PARENT'S CHILD**  
35 **WITHOUT THE PARENT'S CONSENT.**

36           E. Except as prescribed in subsections F and G of this section,  
37 this state, a political subdivision of this state or any other  
38 governmental entity, or any official of this state, a political  
39 subdivision of this state or any other governmental entity acting under  
40 color of law, shall not interfere with or usurp the fundamental right of  
41 parents to direct the upbringing, education, health care and mental health  
42 of their children. A parent may bring suit against a governmental entity  
43 or official described in this subsection based on any violation of the  
44 statutory rights set forth in this chapter or any other action that  
45 interferes with or usurps the fundamental right of parents to direct the

1 upbringing, education, health care and mental health of their children in  
2 the superior court in the county in which the violation or other action  
3 occurs or in federal court, if authorized by federal law, or before an  
4 administrative tribunal of appropriate jurisdiction. A parent may raise a  
5 violation of this chapter as a claim or a defense.

6 F. In any action under subsection E of this section, the  
7 governmental entity or official described in subsection E of this section  
8 has the burden of proof to demonstrate both of the following:

9 1. That the interference or usurpation is essential to accomplish a  
10 compelling government interest of the highest order, as long recognized in  
11 the history and traditions of this state in the operation of its  
12 regulatory powers.

13 2. That the method of interference or usurpation used by the  
14 government is narrowly tailored and is not otherwise served by a less  
15 restrictive means.

16 G. A governmental entity or official described in subsection E of  
17 this section may interfere with or usurp the fundamental right of parents  
18 to direct the upbringing, education, health care and mental health of  
19 their children only if the governmental entity or official successfully  
20 demonstrates both elements described in subsection F of this section. If  
21 the governmental entity or official is unsuccessful, the court shall grant  
22 appropriate relief, such as declaratory or injunctive relief, compensatory  
23 damages and attorney fees, based on the facts of the case and the law as  
24 applied to the facts.

25 H. For the purposes of this section, "parent" means the natural or  
26 adoptive parent or legal guardian of a minor child.

27 Sec. 2. Section 15-101, Arizona Revised Statutes, is amended to  
28 read:

29 15-101. Definitions

30 In this title, unless the context otherwise requires:

31 1. "Accommodation school" means either:

32 (a) A school that is operated through the county board of  
33 supervisors and the county school superintendent and that the county  
34 school superintendent administers to serve a military reservation or  
35 territory that is not included within the boundaries of a school district.

36 (b) A school that provides educational services to homeless  
37 children or alternative education programs as provided in section 15-308,  
38 subsection B.

39 (c) A school that is established to serve a military reservation,  
40 the boundaries of which are coterminous with the boundaries of the  
41 military reservation on which the school is located.

42 2. "Assessed valuation" means the valuation derived by applying the  
43 applicable percentage as provided in title 42, chapter 15, article 1 to  
44 the full cash value or limited property value, whichever is applicable, of  
45 the property.

1           3. "Charter holder" means a person that enters into a charter with  
2 the state board for charter schools. For the purposes of this paragraph,  
3 "person" means an individual, partnership, corporation, association or  
4 public or private organization of any kind.

5           4. "Charter school" means a public school established by contract  
6 with the state board of education, the state board for charter schools, a  
7 university under the jurisdiction of the Arizona board of regents, a  
8 community college district or a group of community college districts  
9 pursuant to article 8 of this chapter to provide learning that will  
10 improve ~~pupit~~ STUDENT achievement.

11           5. "Child with a disability" means a child with a disability as  
12 defined in section 15-761.

13           6. "Class A bonds" means general obligation bonds approved by a  
14 vote of the qualified electors of a school district at an election held on  
15 or before December 31, 1998.

16           7. "Class B bonds" means general obligation bonds approved by a  
17 vote of the qualified electors of a school district at an election held  
18 from and after December 31, 1998.

19           8. "Competency" means a demonstrated ability in a skill at a  
20 specified performance level.

21           9. "Course" means organized subject matter in which instruction is  
22 offered within a given period of time and for which credit toward  
23 promotion, graduation or certification is usually given. A course  
24 consists of knowledge selected from a subject for instructional purposes  
25 in the schools.

26           10. "Course of study" means a list of required and optional  
27 subjects to be taught in the schools.

28           11. "Dual enrollment course" means a college-level course that is  
29 conducted on the campus of a high school or on the campus of a career  
30 technical education district, that is applicable to an established  
31 community college academic degree or certificate program and that is  
32 transferable to a university under the jurisdiction of the Arizona board  
33 of regents. A dual enrollment course that is applicable to a community  
34 college occupational degree or certificate program may be transferable to  
35 a university under the jurisdiction of the Arizona board of regents.

36           12. "Elementary grades" means kindergarten programs and grades one  
37 through eight.

38           13. "Fiscal year" means the year beginning July 1 and ending  
39 June 30.

40           14. "Governing board" means a body THAT IS organized ~~for the~~  
41 ~~government~~ TO GOVERN and ~~management of~~ MANAGE the schools within a school  
42 district or a county school superintendent in ~~the conduct of~~ CONDUCTING an  
43 accommodation school.

44           15. "Lease" means an agreement for ~~conveyance~~ CONVEYING and  
45 ~~possession of~~ POSSESSING real or personal property.

1 16. "Limited property value" means the value determined pursuant to  
2 title 42, chapter 13, article 7. ~~Limited property value shall be~~ THAT IS  
3 used as the basis for assessing, fixing, determining and levying primary  
4 property taxes.

5 17. "Nontest" means not relating to knowledge or skills in reading,  
6 writing, mathematics, social studies, science or any other course.

7 18. "Parent" means the natural or adoptive parent of a child or a  
8 person who has custody of a child.

9 19. "Person who has custody" means a parent or legal guardian of a  
10 child, ~~OR~~ OR a person to whom custody of the child has been given by order  
11 of a court ~~or a person who stands in loco parentis to the child.~~

12 20. "Primary property taxes" means all ad valorem taxes except for  
13 secondary property taxes.

14 21. "Private school" means a nonpublic institution where  
15 instruction is imparted.

16 22. "School" or "public school" means any public institution  
17 established for the purposes of offering instruction to ~~pupils~~ STUDENTS in  
18 programs for preschool children with disabilities, kindergarten programs  
19 or any combination of elementary grades or secondary grades one through  
20 twelve.

21 23. "School district" means a political subdivision of this state  
22 with geographic boundaries organized ~~for the purpose of the administration~~  
23 TO ADMINISTER, support and ~~maintenance of~~ MAINTAIN the public schools or  
24 an accommodation school.

25 24. "Secondary grades" means grades nine through twelve.

26 25. "Secondary property taxes" means ad valorem taxes used to pay  
27 the principal of and the interest and redemption charges on any bonded  
28 indebtedness or other lawful long-term obligation issued or incurred for a  
29 specific purpose by a school district or a community college district and  
30 amounts levied pursuant to an election to exceed a budget, expenditure or  
31 tax limitation.

32 26. "Subject" means a division or field of organized knowledge,  
33 such as English or mathematics, or a selection from an organized body of  
34 knowledge for a course or teaching unit, such as the English novel or  
35 elementary algebra.

36 Sec. 3. Section 15-872, Arizona Revised Statutes, is amended to  
37 read:

38 15-872. Proof of immunization; noncompliance; notice to  
39 parents; civil immunity

40 A. The director of the department of health services, in  
41 consultation with the superintendent of public instruction, shall develop  
42 by rule standards for documentary proof.

43 B. A ~~pupil~~ STUDENT shall not be allowed to attend school without  
44 submitting documentary proof to the school administrator unless the ~~pupil~~  
45 STUDENT is exempted from immunization pursuant to section 15-873.

1 C. Each public school shall make full disclosure of the  
2 requirements and exemptions as prescribed in this section and section  
3 15-873.

4 D. On enrollment, the school administrator shall suspend that ~~pupit~~  
5 STUDENT if the administrator does not have documentary proof and the ~~pupit~~  
6 STUDENT is not exempted from immunization pursuant to section 15-873.

7 E. Notwithstanding subsections B and D of this section, a ~~pupit~~  
8 STUDENT may be admitted to or allowed to attend a school if the ~~pupit~~  
9 STUDENT has received at least one dose of each of the required  
10 immunizations prescribed pursuant to section 36-672 and has established a  
11 schedule for ~~the completion of~~ COMPLETING required immunizations. The  
12 parent, ~~OR~~ guardian ~~or person in loco parentis~~ of a ~~pupit~~ STUDENT shall  
13 present to the school administrator documentary proof of the immunizations  
14 received and a schedule prepared by the ~~pupit's~~ STUDENT'S physician or  
15 registered nurse practitioner or a health agency for ~~completion of~~  
16 COMPLETING additional required immunizations.

17 F. The school administrator shall review the school immunization  
18 record for each ~~pupit~~ STUDENT admitted or allowed to continue attendance  
19 pursuant to subsection E of this section at least twice each school year  
20 until the ~~pupit~~ STUDENT receives all of the required immunizations and  
21 shall suspend a ~~pupit~~ STUDENT as prescribed in subsection G of this  
22 section who fails to comply with the immunization schedule. Immunizations  
23 received by a ~~pupit~~ STUDENT shall be entered in the ~~pupit's~~ STUDENT'S  
24 school immunization record.

25 G. Unless proof of an exemption from immunization pursuant to  
26 section 15-873 is provided, a ~~pupit~~ STUDENT who is admitted or allowed to  
27 continue to attend and who fails to comply with the immunization schedule  
28 within the time intervals specified by the schedule shall be suspended  
29 from school attendance until documentary proof of the administration of  
30 another dose of each appropriate immunizing agent is provided to the  
31 school administrator.

32 H. ~~The provisions of~~ Subsections B, D and E of this section do not  
33 apply to homeless ~~pupits~~ STUDENTS until the fifth calendar day after  
34 enrollment.

35 I. A school and its employees are immune from civil liability for  
36 decisions concerning the admission, readmission and suspension of a ~~pupit~~  
37 STUDENT that are based on a good faith implementation of the requirements  
38 of this article.

39 Sec. 4. Section 23-235, Arizona Revised Statutes, is amended to  
40 read:

41 23-235. Exemptions

42 A. Sections 23-231, 23-232 and 23-233 do not apply to persons:

43 1. WHO ARE employed by a grandparent, brother, sister, aunt, uncle,  
44 first cousin, stepparent or parent, including a relative of the same  
45 degree through marriage or adoption, ~~or person in loco parentis~~ in

1 occupations in which the grandparent, brother, sister, aunt, uncle, first  
2 cousin, stepparent or parent ~~or person in loco parentis~~ owns at least ten  
3 percent of the employing organization and such owner is actively engaged  
4 in the daily operation of the organization, if either:

5 (a) The person is under eighteen years of age and is not engaged in  
6 manufacturing or mining occupations.

7 (b) The person is between sixteen and eighteen years of age and is  
8 engaged in manufacturing or mining occupations.

9 2. WHO ARE employed as stars or performers in motion picture,  
10 theatrical, radio or television productions if before the beginning of  
11 production the production company provides the department of labor of the  
12 industrial commission with the name and address of the person, the length,  
13 location and hours of employment and any other information required by the  
14 department.

15 3. WHO ARE involved in career education programs.

16 4. WHO ARE involved in vocational or technical training school  
17 programs pursuant to title 15, chapter 7, article 5.

18 5. WHO ARE employed as apprentices and registered by the bureau of  
19 apprenticeship and training of the United States department of labor in  
20 accordance with the standards established by that bureau or registered by  
21 the apprenticeship council or employed under a written apprenticeship  
22 agreement and conditions that are found by the secretary of labor to  
23 conform substantially with such federal or state standards.

24 6. WHO ARE trained under either the 4-H federal extension service  
25 or the United States office of education vocational agriculture training  
26 programs, if employed outside school hours on the equipment for which they  
27 have been trained.

28 7. Who have completed vocational or career education programs  
29 approved by the department of education if the programs are directly  
30 related to the prohibited occupation or employment or if working in the  
31 prohibited occupation is part of the vocational or career education  
32 program.

33 8. Who are married.

34 9. Who have a high school diploma or its equivalent.

35 10. Who are minors and who have been emancipated pursuant to  
36 title 12, chapter 15.

37 B. Sections 23-231 and 23-232 do not apply to:

38 1. The operation of power-driven equipment used in the care and  
39 maintenance of lawns and shrubbery not connected to retail, food service  
40 and gasoline service establishments.

41 2. Clerical employment in an office in which duties are performed  
42 without exposure to the hazards described or defined in this article.



1 ~~Sec. 5. Subject to the requirements of article IV, part 1,~~  
2 ~~section 1, Constitution of Arizona, section 23 371, Arizona Revised~~  
3 ~~Statutes, is amended to read:~~

4 ~~23 371. Definitions~~

5 ~~For purposes of IN this article, UNLESS THE CONTEXT OTHERWISE~~  
6 ~~REQUIRES:~~

7 ~~A. 1. "Abuse" means an offense prescribed in section~~  
8 ~~13 3623, Arizona Revised Statutes.~~

9 ~~B. 2. "Commission" is as defined HAS THE SAME MEANING PRESCRIBED~~  
10 ~~in section 23 362, Arizona Revised Statutes.~~

11 ~~C. 3. "Domestic violence" is as defined HAS THE SAME MEANING~~  
12 ~~PRESCRIBED in section 13 3601, Arizona Revised Statutes.~~

13 ~~D. 4. "Earned paid sick time" means time that is compensated at~~  
14 ~~the same hourly rate and with the same benefits, including health care~~  
15 ~~benefits, as the employee normally earns during hours worked and THAT is~~  
16 ~~provided by an employer to an employee for the purposes described in~~  
17 ~~section 23 373 of this article, but in no case shall this hourly amount be~~  
18 ~~less than that provided under the Fair Labor Standards Act of 1938 (29~~  
19 ~~United States Code section 206(A)(1)) or section 23 363, Arizona Revised~~  
20 ~~Statutes.~~

21 ~~E. 5. "Employ" is as defined HAS THE SAME MEANING PRESCRIBED in~~  
22 ~~section 23 362, Arizona Revised Statutes.~~

23 ~~F. 6. "Employee" is as defined HAS THE SAME MEANING PRESCRIBED in~~  
24 ~~section 23 362, Arizona Revised Statutes. Employee AND includes~~  
25 ~~recipients of public benefits who are engaged in work activity as a~~  
26 ~~condition of receiving public assistance.~~

27 ~~G. 7. "Employer" includes any corporation, proprietorship,~~  
28 ~~partnership, joint venture, limited liability company, trust, association,~~  
29 ~~political subdivision of the THIS state, individual or other entity acting~~  
30 ~~directly or indirectly in the interest of an employer in relation to an~~  
31 ~~employee, but does not include the State of Arizona or the United States.~~

32 ~~H. 8. "Family member" means:~~

33 ~~1. (a) Regardless of age, a biological, adopted or foster child,~~  
34 ~~stepchild, or legal ward, a OR child of a domestic partner. , a child to~~  
35 ~~whom the employee stands in loco parentis, or an individual to whom the~~  
36 ~~employee stood in loco parentis when the individual was a minor.~~

37 ~~2. (b) A biological, foster, stepparent or adoptive parent or~~  
38 ~~legal guardian of an employee or an employee's spouse or domestic partner.~~  
39 ~~or a person who stood in loco parentis when the employee or employee's~~  
40 ~~spouse or domestic partner was a minor child.~~

41 ~~3. (c) A person to whom the employee is legally married under the~~  
42 ~~laws of any state, or a domestic partner of an employee as registered~~  
43 ~~under the laws of any state or political subdivision.~~

~~4. (d) A grandparent, grandchild or sibling, (whether of a biological, foster, adoptive or step relationship) STEP RELATIONSHIP, of the employee or the employee's spouse or domestic partner., or~~

~~5. (e) Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.~~

~~f. 9. "Retaliation" is as defined HAS THE SAME MEANING PRESCRIBED in section 23 364, Arizona Revised Statutes.~~

~~g. 10. "Sexual violence" means an offense prescribed in:~~

~~(a) Title 13, chapter 14, Arizona Revised Statutes, except for sections 13 1408 and 13 1422., or~~

~~(b) Sections 13 1304(A)(3), SECTION 13 1304, SUBSECTION A, PARAGRAPH 3 OR SECTION 13 1307, 13 3019, 13 3206, 13 3212, 13 3552, 13 3553, 13 3554, or 13 3560, Arizona Revised Statutes.~~

~~h. 11. "Stalking" means an offense prescribed in section 13 2923, Arizona Revised Statutes.~~

~~i. 12. "Year" means a regular and consecutive 12 month TWELVE MONTH period as determined by the employer.~~

Sec. 6. Section 25-409, Arizona Revised Statutes, is amended to read:

25-409. Third party rights

A. Pursuant to section 25-402, subsection B, paragraph 2, a person other than a legal parent may petition the superior court for legal decision-making authority or placement of the child. The court shall summarily deny a petition unless it finds that the petitioner's initial pleading establishes that all of the following are true:

1. The person filing the petition stands in loco parentis to the child.

2. It would be significantly detrimental to the child to remain or be placed in the care of either legal parent who wishes to keep or acquire legal decision-making.

3. A court of competent jurisdiction has not entered or approved an order concerning legal decision-making or parenting time within one year before the person filed a petition pursuant to this section, unless there is reason to believe the child's present environment may seriously endanger the child's physical, mental, moral or emotional health.

4. One of the following applies:

(a) One of the legal parents is deceased.

(b) The child's legal parents are not married to each other at the time the petition is filed.

(c) A proceeding for dissolution of marriage or for legal separation of the legal parents is pending at the time the petition is filed.

(d) THE CHILD HAS ONLY ONE LEGAL PARENT.

1 (e) THE PARENTAL RIGHTS OF ONE OF THE CHILD'S LEGAL PARENTS HAVE  
2 BEEN TERMINATED.

3 (f) THE PATERNITY OF THE CHILD HAS NOT BEEN ESTABLISHED.

4 B. Notwithstanding subsection A of this section, it is a rebuttable  
5 presumption that awarding legal decision-making to a legal parent serves  
6 the child's best interests because of the physical, psychological and  
7 emotional needs of the child to be reared by a legal parent. A third  
8 party may rebut this presumption only with proof showing by clear and  
9 convincing evidence that awarding legal decision-making to a legal parent  
10 is not consistent with the child's best interests.

11 C. Pursuant to section 25-402, subsection B, paragraph 2, a person  
12 other than a legal parent may petition the superior court for visitation  
13 with a child. The superior court may grant visitation rights during the  
14 child's minority on a finding that the visitation is in the child's best  
15 interests and that any of the following is true:

16 1. One of the legal parents is deceased or has been missing at  
17 least three months. For the purposes of this paragraph, a parent is  
18 considered to be missing if the parent's location has not been determined  
19 and the parent has been reported as missing to a law enforcement agency.

20 2. The child was born out of wedlock and the child's legal parents  
21 are not married to each other at the time the petition is filed.

22 3. For grandparent or great-grandparent visitation, the marriage of  
23 the parents of the child has been dissolved for at least three months.

24 4. For in loco parentis visitation, EITHER OF THE FOLLOWING:

25 (a) A proceeding for dissolution of marriage or for legal  
26 separation of the legal parents is pending at the time the petition is  
27 filed.

28 (b) THE MARRIAGE OF THE PARENTS OF THE CHILD HAS BEEN DISSOLVED FOR  
29 AT LEAST THREE MONTHS.

30 5. THE PARENTAL RIGHTS OF ONE OF THE CHILD'S LEGAL PARENTS HAVE  
31 BEEN TERMINATED.

32 D. A petition filed under subsection A or C of this section must be  
33 verified or supported by affidavit and must include detailed facts  
34 supporting the petitioner's claim. The petitioner must also provide  
35 notice of this proceeding, including a copy of the petition and any  
36 affidavits or other attachments, and serve the notice pursuant to the  
37 Arizona rules of family law procedure to all of the following:

38 1. The child's legal parents.

39 2. A third party who possesses legal decision-making authority over  
40 the child or visitation rights.

41 3. The child's guardian or guardian ad litem.

42 4. A person or agency that possesses physical custody of the child  
43 or claims legal decision-making authority or visitation rights concerning  
44 the child.

1           5. Any other person or agency that has previously appeared in the  
2 action.

3           E. In deciding whether to grant visitation to a third party, the  
4 court shall give special weight to the legal parents' opinion of what  
5 serves their child's best interests and consider all relevant factors  
6 including:

7           1. The historical relationship, if any, between the child and the  
8 person seeking visitation.

9           2. The motivation of the requesting party seeking visitation.

10          3. The motivation of the person objecting to visitation.

11          4. The quantity of visitation time requested and the potential  
12 adverse impact that visitation will have on the child's customary  
13 activities.

14          5. If one or both of the child's parents are deceased, the benefit  
15 in maintaining an extended family relationship.

16           F. If logistically possible and appropriate, the court shall order  
17 visitation by a grandparent or great-grandparent if the child is residing  
18 or spending time with the parent through whom the grandparent or  
19 great-grandparent claims a right of access to the child.

20           G. A grandparent or great-grandparent seeking visitation rights  
21 under this section shall petition in the same action in which the family  
22 court previously decided legal decision-making and parenting time or, if  
23 no such case existed, by separate petition in the county of the child's  
24 home state, as defined in section 25-1002.

25           H. All visitation rights granted under this section automatically  
26 terminate if the child is adopted or placed for adoption. If the child is  
27 removed from an adoptive placement, the court may reinstate the visitation  
28 rights. This subsection does not apply if the child is adopted by the  
29 spouse of a natural parent after the natural parent remarries.

30           I. For the purposes of this section, a child who is adopted may be  
31 treated as if born in lawful wedlock only if the child is adopted jointly  
32 by parents who are married to one another as provided in section 8-103,  
33 subsection A.

34           Sec. 7. Section 36-673, Arizona Revised Statutes, is amended to  
35 read:

36           36-673. Duties of local health departments; immunization;  
37           reimbursement; training; informed consent

38           A. A local health department in cooperation with each school within  
39 the county shall provide for the required immunization of ~~pupils~~ STUDENTS  
40 attending school.

41           B. A local health department shall provide immunizations required  
42 for school attendance at no cost to the ~~pupil~~ STUDENT or ~~pupil's~~ STUDENT'S  
43 parent, ~~OR~~ guardian ~~or person in loco parentis~~. In order to receive  
44 reimbursement for the cost of the immunization from the ~~pupil's~~ STUDENT'S  
45 or parent's private health insurance coverage, the local health department

1 may enter into a contract governing the terms of reimbursement and claims  
2 with the corresponding private health care insurer. The local health  
3 department may enter into a contract with a private health care insurer on  
4 its own, in conjunction with other local health departments or through a  
5 qualified intermediary. If the local health department chooses not to  
6 contract with a private health care insurer, or does not respond to the  
7 request to contract from a private health care insurer within ninety days  
8 ~~of~~ AFTER the request, the insurer is not required to reimburse the local  
9 health department for the immunization. If a private health care insurer  
10 declines or does not respond to a request to contract with a local health  
11 department, with a coalition of other local health departments or through  
12 a qualified intermediary within ninety days ~~of~~ AFTER the request to  
13 contract, the private health care insurer must reimburse the local health  
14 department at the rate paid to an in-network provider.

15 C. A local health department, on request by a school nurse and  
16 approval by the school administrator, shall train and authorize the school  
17 nurse to administer required immunizations.

18 D. A ~~pupit~~ STUDENT shall not be immunized without the informed  
19 consent of the parent, ~~OR guardian or person in loco parentis~~ of the  
20 ~~pupit~~ STUDENT. A ~~pupit~~ STUDENT who is at least eighteen years of age or  
21 is emancipated may consent to immunization.

22 Sec. 8. Section 36-674, Arizona Revised Statutes, is amended to  
23 read:

24 36-674. Providing proof of immunization

25 A physician, local health department or school nurse administering  
26 an immunization shall furnish documentary proof of immunization to the  
27 person immunized or, if that person is a child, to the child's parent or  
28 guardian ~~or the person in loco parentis of the child~~.

29 Sec. 9. Section 36-725, Arizona Revised Statutes, is amended to  
30 read:

31 36-725. Orders to cooperate; emergency custody

32 A. If the tuberculosis control officer or the local health officer  
33 knows or has reasonable grounds to believe someone is an afflicted person  
34 who endangers another person or the community and the afflicted person  
35 fails or refuses to comply with voluntary examination, monitoring,  
36 treatment, isolation or quarantine, the tuberculosis control officer or  
37 the local health officer shall issue a written order to cooperate to the  
38 afflicted person or, if **THE AFFLICTED PERSON IS** a minor or incapacitated  
39 person, the afflicted person's parent or guardian that requires the  
40 afflicted person to cooperate with all intervention efforts to prevent and  
41 control the transmission of the disease. The order may require the  
42 afflicted person to participate in education, counseling, examination,  
43 medical treatment and supervision programs and to undergo medical tests  
44 for monitoring and to verify the afflicted person's status.

1 B. In urgent circumstances an order to cooperate may be an oral  
2 statement followed by the issuance of a written order by the end of the  
3 next business day. For the purposes of this subsection, "urgent  
4 circumstances" means those situations when the tuberculosis control  
5 officer or the local health officer determines the issuance of a written  
6 order to be reasonably impractical due to circumstances beyond the control  
7 of the officer, including inaccessibility, dangerous conditions or the  
8 threat of physical violence.

9 C. An order to cooperate shall be individual and specific and shall  
10 not be issued to a class of persons. The order shall be served on the  
11 afflicted person or, if THE AFFLICTED PERSON IS a minor or incapacitated  
12 person, the afflicted person's parent or guardian by a person who is  
13 employed by or under contract to the department, the tuberculosis control  
14 officer or the local health officer or by any sheriff, peace officer or  
15 person authorized to serve process. If personal service cannot be  
16 performed despite the exercise of due diligence, the order may be served  
17 by certified mail, return receipt requested. An affidavit of service that  
18 details the procedures followed in serving the order shall be prepared and  
19 maintained in the case file of the tuberculosis control officer or the  
20 local health officer.

21 D. An order to cooperate issued pursuant to this section shall  
22 include a statement that, unless the afflicted person complies with the  
23 actions required in the order, the tuberculosis control officer or the  
24 local health officer may order the afflicted person to be taken into  
25 emergency custody and shall seek a court order for compulsory examination,  
26 monitoring, treatment, isolation or quarantine. The order to cooperate  
27 shall also state that if a court order is sought, the afflicted person to  
28 whom the order is issued has the right to notice and a hearing and other  
29 rights as provided by law.

30 E. If the afflicted person refuses to comply with an order issued  
31 pursuant to this section or if the tuberculosis control officer or local  
32 health officer knows that an afflicted person has previously failed or  
33 refused to comply with an appropriate prescribed course of medication,  
34 treatment or monitoring, and if the tuberculosis control officer or the  
35 local health officer has reasonable grounds to believe that the afflicted  
36 person poses a substantial danger to another person or the community and  
37 that emergency custody is necessary to prevent a substantial danger to  
38 another person or the community, the tuberculosis control officer or the  
39 local health officer may issue an emergency custody order directing a  
40 sheriff or law enforcement officer to take the afflicted person into  
41 custody, to take precautions reasonable and necessary under the  
42 circumstances to protect the health of law enforcement officers and to  
43 oversee and ensure the transport of the afflicted person to an institution  
44 or facility specified in the order. If the afflicted person's condition  
45 or the institution's or facility's location or hours make transportation

1 impracticable, the afflicted person shall be transported to an institution  
2 or facility designated by the department, the tuberculosis control officer  
3 or the local health officer. The order may be an oral order followed by  
4 the issuance of a written order by the end of the next business day. The  
5 receiving institution or facility shall provide suitable housing and care  
6 of the afflicted person. At the option of the tuberculosis control  
7 officer or the local health officer, an afflicted person may be  
8 transported by a health care provider, emergency medical services  
9 personnel, a physician, ambulance personnel, an ambulance service, A  
10 guardian, A conservator, A parent, A custodian, A relative or A friend to  
11 a designated institution or facility. A sheriff or law enforcement agency  
12 shall maintain custody of the afflicted person until the afflicted person  
13 is delivered to the institution or facility specified in the order or to  
14 an alternate institution or facility approved by the department, the  
15 tuberculosis control officer or the local health officer.

16 F. The admitting officer of an institution or facility that  
17 receives an afflicted person pursuant to subsection E of this section  
18 shall admit the afflicted person as an emergency patient and shall perform  
19 an examination to determine if the afflicted person must be isolated.

20 G. An afflicted person admitted pursuant to an emergency custody  
21 order shall be released from custody if the medical director of the  
22 receiving institution or facility, with the advice and consent of the  
23 tuberculosis control officer or a local health officer, determines that  
24 the afflicted person is any of the following:

- 25 1. Not afflicted with active tuberculosis.
- 26 2. Not a danger to another person or to the community and release  
27 is appropriate.
- 28 3. Qualified for release as a voluntary patient.

29 H. If an afflicted person is admitted pursuant to an emergency  
30 custody order, the tuberculosis control officer, the local health officer  
31 or a designated legal representative shall file a petition for public  
32 health protection within three business days after the detention unless  
33 the afflicted person has been accepted as a voluntary patient. The  
34 petition shall conform to the requirements of section 36-726.

35 I. At the time an afflicted person is taken into emergency custody  
36 pursuant to this section, the tuberculosis control officer or local health  
37 officer, within the limits of due diligence, shall promptly notify the  
38 afflicted person's physician, parent or guardian or an adult member of the  
39 afflicted person's family of the detention. The notification shall  
40 include the location of the detention, the terms and conditions of custody  
41 and the authority that ordered the afflicted person's detention. An  
42 afflicted person detained under this section or, if **THE AFFLICTED PERSON**  
43 **IS** a minor or incapacitated person, the afflicted person's parent or  
44 guardian shall be informed by the tuberculosis control officer or the  
45 local health officer of the afflicted person's rights under this article,

1 including the right to consult with an attorney and the right to have an  
2 attorney appointed by the court if the afflicted person cannot afford to  
3 employ an attorney. The afflicted person or, if **THE AFFLICTED PERSON IS** a  
4 minor or incapacitated person, the afflicted person's parent or guardian  
5 shall also be advised that if a petition for public health protection is  
6 filed the court shall appoint an attorney to consult with and to represent  
7 the afflicted person if the afflicted person cannot afford to employ an  
8 attorney.

9 J. If the afflicted person is a minor or incapacitated person, the  
10 tuberculosis control officer or local health officer shall use reasonable  
11 efforts to locate, contact and confer with a parent or guardian ~~prior to~~  
12 **BEFORE** initiating an intervention pursuant to this article.

13 K. ~~In the event~~ **IF** a parent or guardian of an afflicted person who  
14 is a minor or an incapacitated person cannot be located or the parent or  
15 guardian is unwilling to consent to a recommended intervention pursuant to  
16 this article, the tuberculosis control officer or local health officer,  
17 for the purpose of protecting the public health, may initiate any  
18 intervention that does not prescribe medical treatment for the minor or  
19 the incapacitated person unless medical treatment is otherwise authorized  
20 by section 14-5209, 14-5312, **OR** 44-132 ~~or 44-133~~.

21 L. A petition for public health protection shall be filed with the  
22 clerk of the superior court within three business days after the afflicted  
23 person's emergency detention authorized pursuant to an order of the  
24 tuberculosis control officer or the local health officer. A petition  
25 filed pursuant to this subsection shall conform to the requirements of  
26 section 36-726. If a petition for public health protection is not filed  
27 within three business days after the detention, the afflicted person shall  
28 be immediately released from custody. An afflicted person who is released  
29 for this reason shall not be returned to emergency custody by a subsequent  
30 order unless the tuberculosis control officer or the local health officer  
31 first obtains an order from the superior court that ~~permits~~ **ALLOWS**  
32 detention pursuant to this article.

33 M. This section does not allow a private or public facility or  
34 agency to forcibly or involuntarily administer medications to an afflicted  
35 person unless authorized by the written order of the superior court  
36 pursuant to this article or as otherwise permitted by law.

37 Sec. 10. Repeal

38 Section ~~44-133~~, Arizona Revised Statutes, is repealed.

39 ~~Sec. 11. Requirements for enactment, three fourths vote~~

40 ~~Pursuant to article IV, part 1, section 1, Constitution of Arizona,~~  
41 ~~section 23-371, Arizona Revised Statutes, as amended by this act, is~~  
42 ~~effective only on the affirmative vote of at least three fourths of the~~  
43 ~~members of each house of the legislature.~~