

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2559

(Reference to printed bill)

1 Page 1, between lines 2 and 3, insert:

2 "Section 1. Section 8-453, Arizona Revised Statutes, is amended to
3 read:

4 8-453. Powers and duties

5 A. The director shall:

6 1. Carry out the purposes of the department prescribed in section
7 8-451.

8 2. Provide transparency by being open and accountable to the public
9 for the actions of the department.

10 3. Develop a data system that enables persons and entities that are
11 charged with a responsibility relating to child safety to access all
12 relevant information relating to an abused, neglected or abandoned child as
13 provided by law.

14 4. Subject to title 41, chapter 4, article 4 and, as applicable,
15 articles 5 and 6, employ deputy directors and other key personnel based on
16 qualifications that are prescribed by the director.

17 5. Adopt rules to implement the purposes of the department and the
18 duties and powers of the director.

19 6. Petition, as necessary to implement the case plan established
20 under section 8-824 or 8-845, for the appointment of a guardian or a
21 temporary guardian under title 14, chapter 5 for children who are in THE
22 custody of the department pursuant to court order. Persons applying to be
23 guardians or temporary guardians under this section shall be fingerprinted.
24 A foster parent or certified adoptive parent already fingerprinted is not
25 required to be fingerprinted again, if the foster parent or certified
26 adoptive parent is the person applying to be the guardian or temporary
27 guardian.

1 7. Cooperate with other agencies of this state, county and municipal
2 agencies, faith-based organizations and community social services agencies,
3 if available, to achieve the purposes of this chapter.

4 8. Exchange information, including case specific information, and
5 cooperate with the department of economic security for the administration
6 of the department of economic security's programs.

7 9. Administer child welfare activities, including:

8 (a) Cross-jurisdictional placements pursuant to section 8-548.

9 (b) Providing the cost of care of:

10 (i) Children who are in temporary custody, are the subject of a
11 dependency petition or are adjudicated by the court as dependent and who
12 are in out-of-home placement, except state institutions.

13 (ii) Children who are voluntarily placed in out-of-home placement
14 pursuant to section 8-806.

15 (iii) Children who are the subject of a dependency petition or are
16 adjudicated dependent and who are in the custody of the department and
17 ordered by the court pursuant to section 8-845 to reside in an independent
18 living program pursuant to section 8-521.

19 (c) Providing services for children placed in adoption.

20 10. Formulate policies, plans and programs to effectuate the
21 missions and purposes of the department.

22 11. Make contracts and incur obligations within the general scope of
23 the department's activities and operations subject to the availability of
24 funds.

25 12. Coordinate with, contract with or assist other departments,
26 agencies and institutions of this state and local and federal governments
27 in the furtherance of the department's purposes, objectives and programs.

28 13. Accept and disburse grants, matching funds and direct payments
29 from public or private agencies for the conduct of programs that are
30 consistent with the overall purposes and objectives of the department.

31 14. Collect monies owed to the department.

1 15. Act as an agent of the federal government in furtherance of any
2 functions of the department.

3 16. Carry on research and compile statistics relating to the child
4 welfare program throughout this state, including all phases of dependency.

5 17. Cooperate with the superior court in all matters related to this
6 title and title 13.

7 18. Provide the cost of care and transitional independent living
8 services for a person under twenty-one years of age pursuant to section
9 8-521.01.

10 19. Ensure that all criminal conduct allegations and reports of
11 imminent risk of harm are investigated.

12 20. Ensure the department's compliance with the Indian child welfare
13 act of 1978 (P.L. 95-608; 92 Stat. 3069; 25 United States Code sections
14 1901 through 1963).

15 21. Strengthen relationships with tribal child protection agencies
16 or programs.

17 B. The director may:

18 1. Take administrative action to improve the efficiency of the
19 department.

20 2. Contract with a private entity to provide any functions or
21 services pursuant to this title.

22 3. Apply for, accept, receive and expend public and private gifts or
23 grants of money or property on the terms and conditions as may be imposed
24 by the donor and for any purpose provided for by this title.

25 4. Reimburse department volunteers, designated by the director, for
26 expenses in transporting clients of the department on official business.
27 Volunteers reimbursed for expenses are not eligible for workers'
28 compensation under title 23, chapter 6.

29 C. The department shall administer individual and family services,
30 including sections on services to children and youth and other related
31 functions in furtherance of social service programs under the social
32 security act, as amended, title IV, parts B and E, grants to states for aid

1 and services to needy families with children and for child-welfare
2 services, title XX, grants to states for services and other related federal
3 acts and titles.

4 ~~D. If the department has responsibility for the care, custody or~~
5 ~~control of a child or is paying the cost of care for a child, the~~
6 ~~department may serve as representative payee to receive and administer~~
7 ~~social security and veterans administration benefits and other benefits~~
8 ~~payable to the child. Notwithstanding any law to the contrary, the~~
9 ~~department:~~

10 ~~1. Shall deposit, pursuant to sections 35-146 and 35-147, any monies~~
11 ~~it receives to be retained separate and apart from the state general fund~~
12 ~~on the books of the department of administration.~~

13 ~~2. May use these monies to defray the cost of care and services~~
14 ~~expended by the department for the benefit, welfare and best interests of~~
15 ~~the child and invest any of the monies that the director determines are not~~
16 ~~necessary for immediate use.~~

17 ~~3. Shall maintain separate records to account for the receipt,~~
18 ~~investment and disposition of monies received for each child.~~

19 ~~4. On termination of the department's responsibility for the child,~~
20 ~~shall release any monies remaining to the child's credit pursuant to the~~
21 ~~requirements of the funding source or, in the absence of any requirements,~~
22 ~~shall release the remaining monies to:~~

23 ~~(a) The child, if the child is at least eighteen years of age or is~~
24 ~~emancipated.~~

25 ~~(b) The person who is responsible for the child if the child is a~~
26 ~~minor and not emancipated.~~

27 ~~E. Subsection D of this section does not apply to benefits that are~~
28 ~~payable to or for the benefit of a child receiving services under title 36.~~

29 ~~F.~~ D. Notwithstanding any other law, a state or local governmental
30 agency or a private entity is not subject to civil liability for the
31 disclosure of information that is made in good faith to the department
32 pursuant to this section.

1 ~~G.~~ E. Notwithstanding section 41-192, the department may employ
2 legal counsel to provide legal advice to the director. The attorney
3 general shall represent the department in any administrative or judicial
4 proceeding pursuant to title 41, chapter 1, article 5.

5 ~~H.~~ F. The total amount of state monies that may be spent in any
6 fiscal year by the department for foster care as provided in subsection A,
7 paragraph 9, subdivision (b) of this section may not exceed the amount
8 appropriated or authorized by section 35-173 for that purpose. This
9 section does not impose a duty on an officer, agent or employee of this
10 state to discharge a responsibility or ~~to~~ create any right in a person or
11 group if the discharge or right would require an expenditure of state
12 monies in excess of the expenditure authorized by legislative appropriation
13 for that specific purpose."

14 Renumber to conform

15 Page 1, line 5, after "notice" insert "": annual review"

16 Line 7, after "IS" insert "RECEIVING OR"

17 Line 9, strike "UNITED STATES DEPARTMENT OF VETERANS AFFAIRS" insert "VETERANS
18 ADMINISTRATION WITHIN SIXTY DAYS AFTER THE CHILD ENTERS THE DEPARTMENT'S
19 CARE"

20 Line 10, after "ELIGIBLE" insert "OR MAY BE ELIGIBLE"

21 Strike lines 13 and 14, insert "B. IF A CHILD IS ALREADY RECEIVING BENEFITS
22 BEFORE ENTERING THE DEPARTMENT'S CARE OR IF THE DEPARTMENT APPLIES FOR
23 BENEFITS ON BEHALF OF THE CHILD, THE DEPARTMENT SHALL IDENTIFY, IN
24 CONSULTATION WITH THE CHILD AND THE CHILD'S ATTORNEY, A REPRESENTATIVE
25 PAYEE IN ACCORDANCE WITH 20 CODE OF FEDERAL REGULATIONS SECTIONS 404.2021
26 AND 416.621 AND SHALL APPLY TO BECOME THE REPRESENTATIVE PAYEE ONLY IF NO
27 OTHER SUITABLE CANDIDATE IS AVAILABLE. IF THE"

28 Line 15, strike "SERVING" insert "APPOINTED TO SERVE"

29 Line 17, after "BENEFITS" insert ", OTHER BENEFITS, SAVINGS OR ASSETS"

30 Line 21, strike "OR" insert a comma; after "REQUIRED" insert "OR AGREES"

1 Page 1, strike lines 23 through 28, insert:

2 "3. SHALL ESTABLISH AN APPROPRIATE ACCOUNT TO USE AND CONSERVE THE
3 CHILD'S BENEFITS IN THE CHILD'S BEST INTEREST FOR CURRENT UNMET NEEDS AND
4 FUTURE NEEDS IN A MANNER CONSISTENT WITH FEDERAL AND STATE ASSET AND
5 RESOURCE LIMITS. THE ACCOUNT MAY INCLUDE ANY OF THE FOLLOWING:

6 (a) A SPECIAL NEEDS TRUST.

7 (b) A POOLED SPECIAL NEEDS TRUST.

8 (c) AN ACHIEVING A BETTER LIFE EXPERIENCE ACCOUNT ESTABLISHED
9 PURSUANT TO SECTION 529A OF THE INTERNAL REVENUE CODE.

10 (d) ANY OTHER TRUST ACCOUNT DETERMINED NOT TO INTERFERE WITH SOCIAL
11 SECURITY OR ASSET LIMITATIONS FOR ANY OTHER BENEFIT PROGRAM."

12 Line 30, after "ACCOUNTING" insert "AS TO THE USE, APPLICATION OR
13 CONSERVATION"

14 Line 31, strike "THE ACCOUNTING"

15 Strike lines 32 and 33, insert:

16 "5. SHALL PERIODICALLY REVIEW IF SOMEONE OTHER THAN THE DEPARTMENT
17 IS AVAILABLE TO APPLY TO ASSUME THE ROLE OF REPRESENTATIVE PAYEE AND COULD
18 BETTER SERVE IN THAT ROLE IN THE CHILD'S BEST INTERESTS."

19 Line 34, after "C." strike remainder of line

20 Strike lines 35 and 36

21 Line 37, strike "A OF THIS SECTION,"

22 Line 38, after the comma insert "UNLESS PARENTAL RIGHTS HAVE BEEN
23 TERMINATED,"; after "GUARDIAN" insert ", THE CHILD'S CURRENT PLACEMENT";
24 strike the fourth "THE" insert "ANY"

25 Line 39, after "APPLICATION" insert ", DECISION OR APPEAL RELATED TO A CHILD'S
26 FEDERAL BENEFITS. IN PROVIDING NOTICE OF ANY DENIAL OF BENEFITS, THE
27 DEPARTMENT SHALL CONSULT WITH THE CHILD'S ATTORNEY AND APPEAL THE DENIAL IF
28 IT IS IN THE CHILD'S BEST INTERESTS"

29 After line 39, insert:

30 "D. THE DEPARTMENT SHALL ANNUALLY REVIEW CASES OF CHILDREN IN THE
31 DEPARTMENT'S CARE TO DETERMINE WHETHER A CHILD MAY HAVE BECOME ELIGIBLE FOR
32 BENEFITS AFTER THE DEPARTMENT'S INITIAL ASSESSMENT.

1 E. NOTWITHSTANDING ANY OTHER LAW, ON TERMINATION OF THE DEPARTMENT'S
2 RESPONSIBILITY FOR THE CHILD, THE DEPARTMENT SHALL RELEASE ANY MONIES
3 REMAINING TO THE CHILD'S CREDIT PURSUANT TO THE REQUIREMENTS OF THE FUNDING
4 SOURCE OR, IN THE ABSENCE OF ANY REQUIREMENTS, SHALL RELEASE THE REMAINING
5 MONIES TO:

6 1. THE CHILD, IF THE CHILD IS AT LEAST EIGHTEEN YEARS OF AGE OR IS
7 EMANCIPATED.

8 2. THE PERSON WHO IS RESPONSIBLE FOR THE CHILD IF THE CHILD IS A
9 MINOR AND NOT EMANCIPATED."

10 Amend title to conform

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