

REFERENCE TITLE: duty to report; penitent confessions

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2636

Introduced by
Representative Parker B

AN ACT

AMENDING SECTION 13-3620, ARIZONA REVISED STATUTES; RELATING TO THE DUTY TO REPORT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

8 A. Any person who reasonably believes that a minor is or has been
9 the victim of physical injury, abuse, child abuse, a reportable offense or
10 neglect that appears to have been inflicted on the minor by other than
11 accidental means or that is not explained by the available medical history
12 as being accidental in nature or who reasonably believes there has been a
13 denial or deprivation of necessary medical treatment or surgical care or
14 nourishment with the intent to cause or allow the death of an infant who
15 is protected under section 36-2281 shall immediately report or cause
16 reports to be made of this information to a peace officer, to the
17 department of child safety or to a tribal law enforcement or social
18 services agency for any Indian minor who resides on an Indian reservation,
19 except if the report concerns a person who does not have care, custody or
20 control of the minor, the report shall be made to a peace officer only. A
21 member of the clergy, a Christian Science practitioner or a priest who has
22 received a confidential ~~communication or a~~ confession FROM A PENITENT
23 CONFESSOR in that person's role as a member of the clergy, as a Christian
24 Science practitioner or as a priest in the course of the discipline
25 enjoined by the church to which the member of the clergy, the Christian
26 Science practitioner or the priest belongs may withhold reporting of the
27 ~~communication or~~ confession if the member of the clergy, the Christian
28 Science practitioner or the priest determines that it is reasonable and
29 necessary within the concepts of the religion. This exemption applies
30 only to the ~~communication or~~ confession FROM A PENITENT CONFESSOR and not
31 to personal observations the member of the clergy, the Christian Science
32 practitioner or the priest may otherwise make of the minor OR TO ANY
33 COMMUNICATION THAT IS NOT A CONFESSION FROM A PENITENT CONFESSOR. THIS
34 SECTION DOES NOT MODIFY OR LIMIT A MEMBER OF THE CLERGY, A CHRISTIAN
35 SCIENCE PRACTITIONER OR A PRIEST FROM THE DUTY TO REPORT KNOWN OR
36 SUSPECTED CHILD ABUSE WHEN ACTING IN SOME OTHER CAPACITY THAT WOULD
37 OTHERWISE REQUIRE REPORTING. COMMUNICATION MADE UNDER ANY OTHER
38 CIRCUMSTANCES DOES NOT FALL UNDER THIS EXEMPTION. For the purposes of
39 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. Forensic interviews or medical
33 examinations, or both, of the involved 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. A person who violates this section is guilty of a class
35 1 misdemeanor, except if the failure to report involves a reportable
36 offense, the person is guilty of a class 6 felony.

37 P. For the purposes of this section:

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

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

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

41 4. "PENITENT CONFESSOR" MEANS A PARISHIONER, CONGREGANT,
42 WORSHIPPER, CHURCH MEMBER, ATTENDEE OR INDIVIDUAL WHO MEETS WITH A MEMBER
43 OF THE CLERGY, A CHRISTIAN SCIENCE PRACTITIONER OR A PRIEST IN THE
44 PERSON'S OFFICIAL CAPACITY AS A MEMBER OF THE CLERGY, AS A CHRISTIAN
45 SCIENCE PRACTITIONER OR AS A PRIEST TO DISCUSS OR CONFESS TO CONDUCT IN AN

- 1 ATTEMPT TO ACT WITHIN THE CONFINES OF THE CONFESSOR'S RELIGION AND IN
2 ACCORDANCE WITH THE LAWS OF THIS STATE.
- 3 ~~4.~~ 5. "Reportable offense" means any of the following:
- 4 (a) Any offense listed in chapters 14 and 35.1 of this title or
5 section 13-3506.
- 6 (b) Surreptitious photographing, videotaping, filming or digitally
7 recording or viewing a minor pursuant to section 13-3019.
- 8 (c) Child sex trafficking pursuant to section 13-3212.
- 9 (d) Incest pursuant to section 13-3608.
- 10 (e) Unlawful mutilation pursuant to section 13-1214.