

Senate Engrossed

department of child safety; continuation.

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

# SENATE BILL 1257

AN ACT

AMENDING SECTION 8-807, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3024.06, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3028.04; RELATING TO THE DEPARTMENT OF CHILD SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-807, Arizona Revised Statutes, is amended to  
3 read:

4 8-807. DCS information; public record; use; confidentiality;  
5 violation; classification

6 A. DCS information shall be maintained by the department as  
7 required by federal law as a condition of the allocation of federal monies  
8 to this state. All exceptions for the public release of DCS information  
9 shall be construed as openly as possible under federal law.

10 B. The department, or a person who receives DCS information  
11 pursuant to this subsection, shall provide DCS information to a federal  
12 agency, a state agency, a tribal agency, a county or municipal agency, a  
13 law enforcement agency, a prosecutor, an attorney or a guardian ad litem  
14 representing a child victim of crime pursuant to article II, section 2.1,  
15 Constitution of Arizona, a school, a community service provider, a  
16 contract service provider or any other person that is providing services  
17 pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this  
18 chapter:

19 1. To meet its duties to provide for the safety and permanency of a  
20 child, provide services to a parent, guardian or custodian or provide  
21 services to family members to strengthen the family pursuant to this  
22 article or article 9, 10, 11, 12, 13 or 14 of this chapter.

23 2. To enforce or prosecute any violation involving child abuse or  
24 neglect or to assert the rights of the child as a victim of a crime.

25 3. To provide information to a defendant after a criminal charge  
26 has been filed as required by an order of the criminal court.

27 4. To help investigate and prosecute any violation involving  
28 domestic violence as defined in section 13-3601 or violent sexual assault  
29 as prescribed in section 13-1423.

30 C. The department shall disclose DCS information to a court, a  
31 party in a dependency or termination of parental rights proceeding or the  
32 party's attorney, the foster care review board or a court appointed  
33 special advocate for the purposes of and as prescribed in this title.

34 D. The department shall disclose DCS information to a domestic  
35 relations, family or conciliation court if the DCS information is  
36 necessary to promote the safety and well-being of children. The court  
37 shall notify the parties that it has received the DCS information.

38 E. A person or agent of a person who is the subject of DCS  
39 information shall have access to DCS information concerning that person.

40 F. The department may provide:

41 1. DCS information to confirm, clarify, correct or supplement  
42 information concerning an allegation or actual instance of child abuse or  
43 neglect that has been made public by a source or sources outside the  
44 department.

1           2. DCS information to a person who is conducting bona fide  
2 research, the results of which might provide DCS information that is  
3 beneficial in improving the department.

4           3. Access to DCS information to the parent, guardian or custodian  
5 of a child if the DCS information is reasonably necessary to promote the  
6 safety, permanency and well-being of the child.

7           4. DCS information if an employee of the department has a  
8 reasonable belief that exigent circumstances exist. For the purposes of  
9 this paragraph, "exigent circumstances" means a condition or situation in  
10 which the death of or serious injury to a child will likely result in the  
11 near future without immediate intervention.

12           G. The department shall disclose DCS information to a county  
13 medical examiner or an alternate medical examiner directing an  
14 investigation into the circumstances surrounding a death pursuant to  
15 section 11-593.

16           H. Access to DCS information in the central registry shall be  
17 provided as prescribed in section 8-804.

18           I. To provide oversight of the department, the department shall  
19 provide access to DCS information to the following persons, if the DCS  
20 information is reasonably necessary for the person to perform the person's  
21 official duties:

22           1. Federal or state auditors.

23           2. Persons conducting any accreditation deemed necessary by the  
24 department.

25           3. A standing committee of the legislature or a committee appointed  
26 by the president of the senate or the speaker of the house of  
27 representatives for purposes of conducting investigations related to the  
28 legislative oversight of the department. This information shall not be  
29 further disclosed unless a court has ordered the disclosure of this  
30 information, the information has been disclosed in a public or court  
31 record, or the information has been disclosed in the course of a public  
32 meeting or court proceeding.

33           4. A legislator who requests DCS information in the regular course  
34 of the legislator's duties. A legislator may discuss this information  
35 with another legislator ~~if the other legislator has signed the form~~  
36 ~~prescribed in subdivision (d) of this paragraph in regard to the specific~~  
37 ~~file that will be discussed.~~ This information shall not be further  
38 disclosed unless a court has ordered the disclosure of this information,  
39 the information has been disclosed in a public or court record, or the  
40 information has been disclosed in the course of a public meeting or court  
41 proceeding. To request a file pursuant to this paragraph:

42           (a) The legislator shall submit a written request for DCS  
43 information to the presiding officer of the body of which the state  
44 legislator is a member. The request shall state the name of the person  
45 whose case file is to be reviewed and any other information that will

1 assist the department in locating the file. The presiding officer may  
2 authorize a legislative staff member to attend with the legislator any  
3 meeting to review the file.

4 (b) The presiding officer shall forward the request to the  
5 department within five working days of the receipt of the request.

6 (c) The department shall make the necessary arrangements for the  
7 legislator to review the file at an office of the department, chosen by  
8 the legislator, within ten working days.

9 ~~(d) The legislator and staff member shall sign a form, consistent  
10 with the requirements of this paragraph and paragraph 3 of this  
11 subsection, before reviewing the file, that outlines the confidentiality  
12 laws governing department files and penalties for further release of the  
13 information.~~

14 5. A citizen review panel as prescribed by federal law, a child  
15 fatality review team as provided in title 36, chapter 35 and the office of  
16 ombudsman-citizens aide.

17 6. An independent oversight committee established pursuant to  
18 section 41-3801.

19 7. The governor who shall not disclose any information unless a  
20 court has ordered the disclosure of the information, the information has  
21 been disclosed in a public or court record or the information has been  
22 disclosed in the course of a public meeting or court proceeding.

23 J. A person who has been denied DCS information regarding a  
24 fatality or near fatality caused by abuse, abandonment or neglect pursuant  
25 to subsection L of this section or section 8-807.01 may bring a special  
26 action pursuant to section 39-121.02 in the superior court to order the  
27 department to release that DCS information. A legislator has standing to  
28 bring or to join a special action regarding the release of DCS information  
29 or to challenge the redaction of released DCS information. The plaintiff  
30 shall provide notice to the county attorney, who has standing and may  
31 participate in the action. The court shall review the requested records  
32 in camera and order disclosure consistent with subsections A and L of this  
33 section and section 8-807.01. The court shall take reasonable steps to  
34 prevent any clearly unwarranted invasions of privacy and protect the  
35 privacy and dignity of victims of crime pursuant to article II, section  
36 2.1, subsection C, Constitution of Arizona.

37 K. The department or a person who is not specifically authorized by  
38 this section to obtain DCS information may petition a judge of the  
39 superior court to order the department to release DCS information. The  
40 plaintiff shall provide notice to the county attorney and to the attorney  
41 and guardian ad litem for the child, who have standing and may participate  
42 in the action. The court shall review the requested records in camera and  
43 shall balance the rights of the parties who are entitled to  
44 confidentiality pursuant to this section against the rights of the parties  
45 who are seeking the release of the DCS information. The court may release

1 otherwise confidential DCS information only if the rights of the parties  
2 seeking the DCS information and any benefits from releasing the DCS  
3 information outweigh the rights of the parties who are entitled to  
4 confidentiality and any harm that may result from releasing the DCS  
5 information. The court shall take reasonable steps to prevent any clearly  
6 unwarranted invasions of privacy and protect the privacy and dignity of  
7 victims of crime pursuant to article II, section 2.1, subsection C,  
8 Constitution of Arizona.

9 L. Except as provided in subsection M of this section, before it  
10 releases records under this section or section 8-807.01, the department  
11 shall take whatever precautions it determines are reasonably necessary to  
12 protect the identity and safety of a person who reports child abuse or  
13 neglect and to protect any other person if the department believes that  
14 disclosure of the DCS information would be likely to endanger the life or  
15 safety of any person. The department is not required by this section to  
16 disclose DCS information if the department demonstrates that disclosure  
17 would cause a specific, material harm to a department investigation. The  
18 department is not required by this section to disclose DCS information if,  
19 in consultation with the county attorney, the county attorney demonstrates  
20 that disclosure would cause a specific, material harm to a criminal  
21 investigation or prosecution.

22 M. A person who is the subject of an unfounded report or complaint  
23 made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this  
24 chapter and who believes that the report or complaint was made in bad  
25 faith or with malicious intent may petition a judge of the superior court  
26 to order the department to release the DCS information. The petition  
27 shall specifically set forth reasons supporting the person's belief that  
28 the report or complaint was made in bad faith or with malicious intent.  
29 The court shall review the DCS information in camera and the person filing  
30 the petition shall be allowed to present evidence in support of the  
31 petition. If the court determines that there is a reasonable question of  
32 fact as to whether the report or complaint was made in bad faith or with  
33 malicious intent and that disclosure of the identity of the person making  
34 the report or complaint would not be likely to endanger the life or safety  
35 of the person making the report or complaint, it shall provide a copy of  
36 the DCS information to the person filing the petition and the original DCS  
37 information is subject to discovery in a subsequent civil action regarding  
38 the making of the report or complaint.

39 N. The department shall provide the person who conducts a forensic  
40 medical evaluation with any records the person requests, including social  
41 history and family history regarding the child, the child's siblings and  
42 the child's parents or guardians.

43 O. The department shall provide DCS information on request to a  
44 prospective adoptive parent, foster parent or guardian, if the information

1 concerns a child the prospective adoptive parent, foster parent or  
2 guardian seeks to adopt or provide care for.

3 P. If the department receives information that is confidential by  
4 law, the department shall maintain the confidentiality of the information  
5 as prescribed in the applicable law.

6 Q. A person may authorize the release of DCS information about the  
7 person but may not waive the confidentiality of DCS information concerning  
8 any other person.

9 R. The department may provide a summary of the outcome of a  
10 department investigation to the person who reported the suspected child  
11 abuse or neglect.

12 S. The department shall adopt rules to facilitate the accessibility  
13 of DCS information.

14 T. The department or a person who receives DCS information pursuant  
15 to subsection B of this section shall provide DCS information to law  
16 enforcement and a court to protect the safety of any employee of the  
17 department or the office of the attorney general or to protect a family  
18 member of such an employee.

19 U. A person who receives DCS information shall maintain the  
20 confidentiality of the information and shall not further disclose the  
21 information unless the disclosure is authorized by law or a court order.

22 V. The department may charge a fee for copying costs required to  
23 prepare DCS information for release pursuant to this section or section  
24 8-807.01.

25 W. Unless explicitly prohibited by law, it is the public policy of  
26 this state that the department shall provide both of the following:

27 1. All DCS information and direct remote access to the department's  
28 automated case management system to the office of the ombudsman-citizen's  
29 aide and the auditor general.

30 2. Direct remote access to the department's automated case  
31 management system and any DCS information that is necessary to perform the  
32 foster care review board's statutory duties to the supreme court.

33 X. A person who violates this section is guilty of a class 2  
34 misdemeanor.

35 Sec. 2. Repeal

36 Section 41-3024.06, Arizona Revised Statutes, is repealed.

37 Sec. 3. Title 41, chapter 27, article 2, Arizona Revised Statutes,  
38 is amended by adding section 41-3028.04, to read:

39 41-3028.04. Department of child safety; termination July  
40 1, 2028

41 A. THE DEPARTMENT OF CHILD SAFETY TERMINATES ON JULY 1, 2028.

42 B. TITLE 8, CHAPTER 4 AND THIS SECTION ARE REPEALED ON JANUARY 1,  
43 2029.

1           Sec. 4. Purpose

2           Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,  
3 the legislature continues the department of child safety to provide  
4 services and resources to families and ensure the safety, permanency and  
5 well-being of children.

6           Sec. 5. Retroactivity

7           Sections 1 and 2 of this act apply retroactively to from and after  
8 July 1, 2024.