

REFERENCE TITLE: DCS; parents' rights; vaccinations

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

SB 1580

Introduced by
Senator Wadsack

AN ACT

AMENDING SECTIONS 8-514.05 AND 8-809.01, ARIZONA REVISED STATUTES;
RELATING TO PARENTS' RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-514.05, Arizona Revised Statutes, is amended
3 to read:

4 8-514.05. Foster care provider and department access to child
5 health information; consent to treatment

6 A. If a health plan, a health care provider licensed or certified
7 pursuant to title 32 or title XIX of the social security act or a health
8 care institution licensed pursuant to title 36, chapter 4 has provided or
9 is providing services to a child placed in out-of-home placement and has
10 custody or control of that child's medical or behavioral health records,
11 the plan, provider or institution must provide the following to the
12 child's foster parent, group home staff, foster home staff, relative or
13 other person or agency in whose care the child is currently placed
14 pursuant to this article or article 6 of this chapter:

- 15 1. Medical records.
- 16 2. Behavioral health records.
- 17 3. Information relating to the child's condition and treatment.
- 18 4. The child's prescription and nonprescription drugs, medications,
19 durable medical equipment, devices and related information.

20 B. If a health plan, a health care provider licensed or certified
21 pursuant to title 32 or title XIX of the social security act or a health
22 care institution licensed pursuant to title 36, chapter 4 has provided or
23 is providing services to a child for whom the department has legal custody
24 or is providing foster care or substance abuse services and has custody or
25 control of that child's medical or behavioral health records, the plan,
26 provider or institution must provide the following to the department's
27 employees who are involved in the child's case management:

- 28 1. Medical records.
- 29 2. Behavioral health records.
- 30 3. Information relating to the child's condition and treatment.
- 31 4. The child's prescription and nonprescription drugs, medications,
32 durable medical equipment, devices and related information.

33 C. If the department has temporary custody of a child pursuant to
34 this title or has legal custody pursuant to a court order, the department:

- 35 1. May consent to any of the following:
 - 36 (a) Evaluation and treatment for emergency conditions that are not
37 life threatening.
 - 38 (b) Routine medical and dental treatment and procedures, including
39 early periodic screening diagnosis and treatment services, and services by
40 health care providers to relieve pain or treat symptoms of common
41 childhood illnesses or conditions.
 - 42 (c) Surgery.
 - 43 (d) Blood transfusions.
 - 44 (e) General anesthesia.
 - 45 (f) Testing for the presence of the human immunodeficiency virus.

- 1 2. May not consent to:
- 2 (a) Abortions.
- 3 (b) **VACCINATIONS WITHOUT THE WRITTEN CONSENT OF THE CHILD'S PARENT.**
- 4 3. To the extent possible, shall consult with each biological
- 5 parent of the child whose parental rights have not been terminated when
- 6 making health care decisions for a child in the department's custody.
- 7 D. The foster parent, group home staff, foster home staff, relative
- 8 or other person or agency in whose care the child is currently placed
- 9 pursuant to this article or article 6 of this chapter:
- 10 1. May give consent for the following:
- 11 (a) Evaluation and treatment for emergency conditions that are not
- 12 life threatening.
- 13 (b) Routine medical and dental treatment and procedures, including
- 14 early periodic screening diagnosis and treatment services, and services by
- 15 health care providers to relieve pain or treat symptoms of common
- 16 childhood illnesses or conditions.
- 17 (c) Testing for the presence of the human immunodeficiency virus.
- 18 2. ~~Shall~~ **MAY** not consent to:
- 19 (a) General anesthesia.
- 20 (b) Surgery.
- 21 (c) Blood transfusions.
- 22 (d) Abortions.
- 23 (e) **VACCINATIONS WITHOUT THE WRITTEN CONSENT OF THE CHILD'S PARENT.**
- 24 Sec. 2. Section 8-809.01, Arizona Revised Statutes, is amended to
- 25 read:
- 26 **8-809.01. Parent, guardian or custodian; rights**
- 27 A. On initial contact with a child safety worker, a parent,
- 28 guardian or custodian under investigation for an allegation of abuse or
- 29 neglect has the following rights:
- 30 1. To be informed of the specific complaint or allegation against
- 31 that person and that any responses to the complaint or allegation may be
- 32 used in a subsequent court proceeding.
- 33 2. To refuse to cooperate with the investigation or receive child
- 34 safety services offered pursuant to the investigation. A child may not be
- 35 temporarily removed based solely on a parent's, guardian's or custodian's
- 36 refusal to cooperate with the investigation.
- 37 3. Unless otherwise ordered by the court, to deny the worker entry
- 38 into the parent's, guardian's or custodian's home.
- 39 4. To respond to allegations either verbally or in writing and to
- 40 have this information considered in determining if the child requires
- 41 child safety services.
- 42 5. To report a violation of the rights specified in this section
- 43 without fear of punishment, interference, coercion or retaliation.
- 44 6. To appeal determinations made by the department.

- 1 7. To seek the advice of an attorney and to have an attorney
2 present when questioned by a worker.
- 3 8. Unless otherwise ordered by the court, to refuse to do any of
4 the following:
- 5 (a) Sign a release of information document.
6 (b) Consent to take a drug or alcohol test.
7 (c) Submit to a mental health evaluation.
- 8 9. To receive information about the investigation and the
9 department's decision-making process.
- 10 10. To be informed both verbally and in writing of these rights and
11 any parental rights under state law and to provide written acknowledgement
12 of receipt of these rights.
- 13 B. If a child safety worker has probable cause to believe that
14 exigent circumstances exist that present an imminent danger to the child,
15 the worker shall take all lawful measures to protect the child pursuant to
16 sections 8-821 and 8-822 before providing the notice of rights pursuant to
17 subsection A of this section.
- 18 C. Unless parental rights have been terminated, ~~OR~~ OR exigent
19 circumstances exist or as otherwise ordered by the court, a parent,
20 guardian or custodian whose child is placed in the department's custody
21 has the following rights:
- 22 1. To not have the child taken into department custody without the
23 department providing the reasons for removal and information supporting
24 the removal.
- 25 2. To the extent practicable, **TO** be immediately notified verbally
26 or in writing that the child was taken into custody.
- 27 3. To receive information on the services available to the child,
28 parent, guardian or custodian and the dependency process and timelines.
- 29 4. To have an attorney present or an attorney appointed by the
30 court at all court proceedings.
- 31 5. To be timely notified of the date, time and location of all
32 hearings and to participate in all hearings.
- 33 6. Whenever possible, to participate in the development of a case
34 plan.
- 35 7. To receive services if the child has been removed from the home,
36 including services that facilitate reunification of the family.
- 37 8. To maintain contact with the child unless it is determined by
38 the department or court to be harmful to the child's safety or well-being.
- 39 9. To be consulted about the child's medical care, education and
40 grooming.
- 41 **10. TO MAKE DECISIONS ABOUT VACCINATION OF THE CHILD.**
- 42 ~~10-~~ 11. To request that the child be returned if the court finds
43 by a preponderance of the evidence that the return of the child would not
44 create a substantial risk of harm to the child's physical, mental or
45 emotional health or safety.

1 D. The department shall provide information regarding a parent's,
2 guardian's or custodian's rights pursuant to this section and assistance
3 in understanding and enforcing these rights to each parent, guardian and
4 custodian on initial contact with a child safety worker or when there is a
5 change in the child's case plan. The information shall include the
6 telephone number and email address of the department, the department's
7 office of the ombudsman and the ombudsman-citizen aide.

8 E. If a parent, guardian or custodian believes that the person's
9 rights under this section have been violated, the parent, guardian or
10 custodian or the person's representative may:

11 1. File a complaint with the department, the department's office of
12 the ombudsman or the ombudsman-citizens aide pursuant to section 41-1376.
13 A formal grievance may be initiated with the ombudsman at any time.

14 2. Notify the juvenile court in the child's ongoing dependency or
15 severance proceeding, either orally or in writing, that the parent's,
16 guardian's or custodian's rights are being violated and request
17 appropriate equitable relief. The court shall act on the notification as
18 necessary within its discretion to promote the best interest of the child.

19 F. The rights provided in this section do not establish an
20 independent cause of action.