

Senate Engrossed

DCS; parents' rights; vaccinations

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

SENATE BILL 1580

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, IF THE CHILD'S PARENT WHOSE PARENTAL RIGHTS HAVE
4 NOT BEEN TERMINATED OBJECTS TO THE VACCINATION IN WRITING TO THE
5 DEPARTMENT.

6 3. To the extent possible, shall consult with each biological
7 parent of the child whose parental rights have not been terminated when
8 making health care decisions for a child in the department's custody.

9 D. The foster parent, group home staff, foster home staff, relative
10 or other person or agency in whose care the child is currently placed
11 pursuant to this article or article 6 of this chapter:

12 1. May give consent for the following:

13 (a) Evaluation and treatment for emergency conditions that are not
14 life threatening.

15 (b) Routine medical and dental treatment and procedures, including
16 early periodic screening diagnosis and treatment services, and services by
17 health care providers to relieve pain or treat symptoms of common
18 childhood illnesses or conditions.

19 (c) Testing for the presence of the human immunodeficiency virus.

20 2. ~~Staff~~ MAY not consent to:

21 (a) General anesthesia.

22 (b) Surgery.

23 (c) Blood transfusions.

24 (d) Abortions.

25 (e) VACCINATIONS, IF THE CHILD'S PARENT WHOSE PARENTAL RIGHTS HAVE
26 NOT BEEN TERMINATED OBJECTS TO THE VACCINATION IN WRITING TO THE
27 DEPARTMENT.

28 Sec. 2. Section 8-809.01, Arizona Revised Statutes, is amended to
29 read:

30 8-809.01. Parent, guardian or custodian; rights

31 A. On initial contact with a child safety worker, a parent,
32 guardian or custodian under investigation for an allegation of abuse or
33 neglect has the following rights:

34 1. To be informed of the specific complaint or allegation against
35 that person and that any responses to the complaint or allegation may be
36 used in a subsequent court proceeding.

37 2. To refuse to cooperate with the investigation or receive child
38 safety services offered pursuant to the investigation. A child may not be
39 temporarily removed based solely on a parent's, guardian's or custodian's
40 refusal to cooperate with the investigation.

41 3. Unless otherwise ordered by the court, to deny the worker entry
42 into the parent's, guardian's or custodian's home.

43 4. To respond to allegations either verbally or in writing and to
44 have this information considered in determining if the child requires
45 child safety services.

1 5. To report a violation of the rights specified in this section
2 without fear of punishment, interference, coercion or retaliation.

3 6. To appeal determinations made by the department.

4 7. To seek the advice of an attorney and to have an attorney
5 present when questioned by a worker.

6 8. Unless otherwise ordered by the court, to refuse to do any of
7 the following:

8 (a) Sign a release of information document.

9 (b) Consent to take a drug or alcohol test.

10 (c) Submit to a mental health evaluation.

11 9. To receive information about the investigation and the
12 department's decision-making process.

13 10. To be informed both verbally and in writing of these rights and
14 any parental rights under state law and to provide written acknowledgement
15 of receipt of these rights.

16 B. If a child safety worker has probable cause to believe that
17 exigent circumstances exist that present an imminent danger to the child,
18 the worker shall take all lawful measures to protect the child pursuant to
19 sections 8-821 and 8-822 before providing the notice of rights pursuant to
20 subsection A of this section.

21 C. Unless parental rights have been terminated, ~~OR~~ **OR** exigent
22 circumstances exist or as otherwise ordered by the court, a parent,
23 guardian or custodian whose child is placed in the department's custody
24 has the following rights:

25 1. To not have the child taken into department custody without the
26 department providing the reasons for removal and information supporting
27 the removal.

28 2. To the extent practicable, **TO** be immediately notified verbally
29 or in writing that the child was taken into custody.

30 3. To receive information on the services available to the child,
31 parent, guardian or custodian and the dependency process and timelines.

32 4. To have an attorney present or an attorney appointed by the
33 court at all court proceedings.

34 5. To be timely notified of the date, time and location of all
35 hearings and to participate in all hearings.

36 6. Whenever possible, to participate in the development of a case
37 plan.

38 7. To receive services if the child has been removed from the home,
39 including services that facilitate reunification of the family.

40 8. To maintain contact with the child unless it is determined by
41 the department or court to be harmful to the child's safety or well-being.

42 9. To be consulted about the child's medical care, education and
43 grooming.

44 **10. TO MAKE DECISIONS ABOUT VACCINATION OF THE CHILD.**

1 ~~10.~~ 11. To request that the child be returned if the court finds
2 by a preponderance of the evidence that the return of the child would not
3 create a substantial risk of harm to the child's physical, mental or
4 emotional health or safety.

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

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

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

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

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