

PROPOSED

SENATE AMENDMENTS TO S.B. 1067

(Reference to printed bill)

1 Page 11, line 45, strike "~~APPLICBALE~~" insert "~~APPLICABLE~~"

2 Page 12, after line 30, insert:

3 "Sec. 5. Section 8-811, Arizona Revised Statutes, is amended to
4 read:

5 8-811. Hearing process; definitions

6 A. The department shall notify a person who is alleged to have abused
7 or neglected a child that the department intends to substantiate the
8 allegation in the central registry pursuant to section 8-804 and of that
9 person's right:

10 1. To receive a copy of the report containing the allegation.

11 2. To a hearing before the entry into the central registry.

12 B. The department shall provide the notice prescribed in subsection A
13 of this section by first class mail or by personal service no more than
14 fourteen days after completion of the investigation.

15 C. A request for a hearing on the proposed finding must be received
16 by the department within twenty days after the mailing or personal service
17 of the notice by the department.

18 D. The department shall not disclose any information related to the
19 investigation of the allegation except as provided in sections 8-456, 8-
20 807, 8-807.01 and 13-3620.

21 E. If a request for a hearing is made pursuant to subsection C of
22 this section, the department shall conduct a review before the hearing. The
23 department shall provide an opportunity for the accused person to provide
24 written or verbal information to support the position that the department
25 should not substantiate the allegation. If the department determines that
26 there is no probable cause that the accused person engaged in the alleged

1 conduct, the department shall amend the information or finding in the
2 report and shall notify the person and a hearing shall not be held.

3 F. Notwithstanding section 41-1092.03, the notification prescribed in
4 subsection A of this section shall also state that if the department does
5 not amend the information or finding in the report as prescribed in
6 subsection E of this section within sixty days after it receives the
7 request for a hearing the person has a right to a hearing unless:

8 1. The person is a party in a pending civil, criminal or
9 administrative proceeding in which the allegations of abuse or neglect are
10 at issue.

11 2. The person is a party in a pending juvenile proceeding in which
12 the allegations of abuse or neglect are at issue.

13 3. A court or administrative law judge has made findings as to the
14 alleged abuse or neglect.

15 4. A court has found that a child is dependent or has terminated a
16 parent's rights based on an allegation of abuse or neglect.

17 G. If the court or administrative law judge in a pending proceeding
18 described in subsection F, paragraph 1 or 2 of this section does not make a
19 finding of abuse or neglect and the matter is no longer pending in that
20 forum, the person has a right to a hearing pursuant to subsection F of this
21 section.

22 H. If the court or administrative law judge in a proceeding described
23 in subsection F of this section has made a finding of abuse or neglect, the
24 finding shall be entered into the central registry as a substantiated
25 report.

26 I. If the department does not amend the information or finding in the
27 report as prescribed in subsection E of this section, the department shall
28 notify the office of administrative hearings of the request for a hearing
29 no later than five days after completion of the review. The department
30 shall forward all records, reports and other relevant information with the
31 request for hearing within ten days. The department shall redact the
32 identity of the reporting source before transmitting the information to the
33 office of administrative hearings.

1 J. The office of administrative hearings shall hold a hearing
2 pursuant to title 41, chapter 6, article 10, with the following exceptions:

3 1. A child who is the victim of or a witness to abuse or neglect is
4 not required to testify at the hearing.

5 2. A child's hearsay statement is admissible if the time, content and
6 circumstances of that statement are sufficiently indicative of its
7 reliability.

8 3. The identity of the reporting source of the abuse or neglect shall
9 not be disclosed without the permission of the reporting source.

10 4. The reporting source is not required to testify.

11 5. A written statement from the reporting source may be admitted if
12 the time, content and circumstances of that statement are sufficiently
13 indicative of its reliability.

14 6. If the person requesting the hearing fails to appear, the hearing
15 shall be vacated and a substantiated finding of abuse or neglect shall be
16 entered. On good cause shown, the hearing may be rescheduled if the
17 request is made within fifteen calendar days after the date of the notice
18 vacating the hearing for failure to appear.

19 K. On completion of the presentation of evidence, the administrative
20 law judge shall determine if probable cause exists to sustain the
21 department's finding that the parent, guardian, EMPLOYEE OF A CHILD WELFARE
22 AGENCY WHERE THE CHILD WAS PLACED THAT WAS LICENSED BY AND CONTRACTED WITH
23 THE DEPARTMENT AT THE TIME OF THE ABUSE or custodian abused ~~or neglected~~
24 the child OR THE PARENT, GUARDIAN OR CUSTODIAN NEGLECTED THE CHILD. If the
25 administrative law judge determines that probable cause exists to sustain
26 the department's finding of abuse or neglect, the sustained finding shall
27 be entered into the central registry as a substantiated report. If the
28 administrative law judge determines that probable cause does not exist to
29 sustain the department's finding, the administrative law judge shall order
30 the department to amend the information or finding in the report.

31 L. When the department is requested to verify pursuant to section 8-
32 807, if the central registry contains a substantiated report about a
33 specific person, the department shall determine if the report was taken
34 after January 1, 1998. If the report was taken after January 1, 1998, the

1 department shall notify the requestor of the substantiated finding. If the
2 report was taken before January 1, 1998, the department shall notify the
3 person of the person's right to request an administrative hearing. The
4 department shall not send this notification if the person was a party in a
5 civil, criminal or administrative proceeding in which the allegations of
6 abuse or neglect were at issue. The provisions of this section shall apply
7 to the person's appeal.

8 M. The department shall provide the parent, guardian or custodian who
9 is the subject of the investigation and the person who reported the
10 suspected child abuse or neglect if that person is the child's parent,
11 guardian or custodian with a copy of the outcome of the investigation at
12 one of the following times:

- 13 1. If the report is unsubstantiated.
- 14 2. If probable cause exists that abuse or neglect has occurred but a
15 specific person is not identified as having abused or neglected the child.
- 16 3. After the time to request a hearing has lapsed pursuant to
17 subsection C of this section without the department receiving a request for
18 a hearing.
- 19 4. After a final administrative decision has been made pursuant to
20 section 41-1092.08.

21 N. For the purposes of this section:

- 22 1. "Amend the finding" means to change the finding from substantiated
23 to unsubstantiated.
- 24 2. "Amend the information" means to change information identifying
25 the accused of having abused or neglected a child."

26 Amend title to conform

THOMAS "T.J." SHOPE

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