

State of Arizona
House of Representatives
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1996

FILED

**Jane Dee Hull
Secretary of State**

CHAPTER 261

HOUSE BILL 2131

AN ACT

AMENDING SECTION 8-546.07, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1995, CHAPTER 176, SECTION 3; REPEALING SECTION 8-546.07, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1995, CHAPTER 266, SECTION 1; PROVIDING FOR THE DELAYED REPEAL OF SECTION 8-546.07, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 8-546.11, ARIZONA REVISED STATUTES; BLENDING MULTIPLE ENACTMENTS; RELATING TO CHILD WELFARE AND PLACEMENT.

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

2 Section 1. Section 8-546.07, Arizona Revised Statutes, as amended by
3 Laws 1995, chapter 176, section 3, is amended to read:

4 8-546.07. Right of privacy; records and reports;
5 confidentiality; exceptions; access; violation;
6 classification; definition

7 A. A person who is the subject of an investigation under this article,
8 the alleged victim and the alleged victim's siblings have a right of privacy
9 that may not be directly or indirectly waived by another person who is a
10 subject of the investigation.

11 B. Through September 30, 1997, department records and files on
12 specific cases of child abuse and neglect are confidential. Except as
13 prescribed by this section, all files, records, reports, and other papers
14 compiled in accordance with this article, whether filed in or in possession
15 of the court, the division, or child placement agency or any other agency or
16 association, are confidential and are not available for public inspection.

17 C. Through September 30, 1997, pursuant to the requirements of this
18 section regarding the release of information, the following persons and
19 entities may obtain confidential records and files:

1 1. Department employees who require this information to perform their
2 official duties.

3 2. Employees of the department of law, a court or a law enforcement
4 agency of this state and the foster care review board if this information is
5 necessary to perform official duties.

6 3. A multidisciplinary case consultation team that the department of
7 economic security uses to review or examine a case of suspected child abuse
8 or neglect or to provide services to a child or the child's family.

9 4. A physician or person designated by the physician who:

10 (a) Reviews or examines a suspected case of child abuse or neglect or
11 provides services to a child.

12 (b) Has as a patient a child who the physician reasonably suspects is
13 the victim of child abuse or neglect and the physician requires this
14 information to provide a diagnosis, prognosis or treatment for the child.

15 5. A foster parent under contract with this state to permit the foster
16 parent to care for a particular child.

17 6. A grand jury.

18 7. The department of education or a particular school district to
19 allow the department of education or a school district to provide services
20 to a particular child.

21 8. Subject to any additional limitations imposed under chapter 1,
22 article 1 of this title, adoptive parents.

23 9. A child who is named in department of economic security records as
24 the victim of child abuse or neglect or that child's guardian ad litem, court
25 appointed special advocate or court appointed counsel.

26 10. A person, agency or organization engaged in a bona fide research
27 or evaluation project, but without information identifying individuals named
28 in a record or file, unless all of the following apply:

29 (a) Having that information open for review is essential to the
30 research or evaluation.

31 (b) The director of the department of economic security gives prior
32 written approval.

33 (c) The child named in the file or record, through the child's
34 representative, gives permission to release the information.

35 11. Agencies of the federal government, this state or a political
36 subdivision of this state for official purposes. All information received
37 by a government agency pursuant to this paragraph shall be maintained as
38 confidential, except where pertinent to a criminal prosecution.

39 12. A standing committee of the legislature or a committee appointed
40 by the president of the senate or the speaker of the house of representatives
41 for purposes of conducting investigations related to the legislative
42 oversight of the department of economic security and this information shall
43 not be further disclosed.

1 13. A person who seeks confidential information concerning an alleged
2 victim of abuse, neglect or abandonment who has died.

3 14. A PERSON OR AGENCY REQUIRED TO PERFORM A PREADoption CERTIFICATION
4 INVESTIGATION PURSUANT TO SECTION 8-105 IF THE INFORMATION IS NEEDED FOR SUCH
5 AN INVESTIGATION.

6 15. AN APPROPRIATE STATE OFFICIAL RESPONSIBLE FOR ADMINISTRATION OF
7 CHILD PROTECTIVE SERVICES OR FOR OVERSIGHT OF THE ENABLING OR APPROPRIATING
8 LEGISLATION, IN CARRYING OUT THAT OFFICIAL'S FUNCTIONS. IN ORDER TO REQUEST
9 A FILE PURSUANT TO THIS SECTION:

10 (a) THE LEGISLATOR SHALL SUBMIT A WRITTEN REQUEST FOR CHILD PROTECTIVE
11 SERVICE RECORDS TO THE PRESIDING OFFICER OF THE BODY OF WHICH THAT PERSON IS
12 A MEMBER. THE REQUEST SHALL STATE THE NAME OF THE PERSON WHOSE CASE FILE IS
13 TO BE REVIEWED AND ANY OTHER INFORMATION THAT WILL ASSIST THE DEPARTMENT IN
14 LOCATING THE FILE. THE REQUEST SHALL ALSO INCLUDE THE DEPARTMENT'S OFFICE
15 AT WHICH THE STATE LEGISLATOR WANTS TO REVIEW THE FILE.

16 (b) THE PRESIDING OFFICER SHALL FORWARD THE REQUEST TO THE DEPARTMENT
17 WITHIN FIVE WORKING DAYS OF THE RECEIPT OF THE REQUEST.

18 (c) THE DEPARTMENT SHALL MAKE THE NECESSARY ARRANGEMENTS FOR THE STATE
19 LEGISLATOR TO REVIEW THE FILE AT AN OFFICE OF THE DEPARTMENT OF ECONOMIC
20 SECURITY, CHOSEN BY THE STATE LEGISLATOR, WITHIN TEN WORKING DAYS.

21 (d) THE STATE LEGISLATOR SHALL SIGN A FORM, PRIOR TO REVIEWING THE
22 FILE, WHICH OUTLINES THE CONFIDENTIALITY LAWS GOVERNING CHILD PROTECTIVE
23 SERVICE FILES AND PENALTIES FOR FURTHER RELEASE OF THE INFORMATION.

24 D. A person about whom a report has been made may obtain a copy of the
25 child protective services report and investigative findings relating to that
26 report. The department shall not disclose the identity of the reporting
27 person and the identity of any person providing information.

28 E. Through September 30, 1997, a person or entity that is not
29 specifically authorized in subsection C or D of this section to obtain
30 information from records and files may petition a judge of the superior court
31 to order the department to release that information. The court shall balance
32 the rights of the parties entitled to confidentiality pursuant to this
33 section against the rights of the parties seeking release of the information.
34 The potential benefit or harm from releasing the information sought shall be
35 considered. The court may release otherwise confidential information only
36 where the rights of the parties seeking the information and any benefits from
37 releasing the information sought ~~outweighs~~ OUTWEIGH the rights of the parties
38 entitled to confidentiality and any harm that may result from releasing the
39 information sought. The court may require the department to submit the
40 requested information to the court for an in camera inspection. Where an
41 order for release is deemed proper, the court may restrict the use,
42 disclosure or dissemination of the information sought in order to protect or
43 minimize harm to any person involved. If the court orders the release of
44 information pursuant to this subsection, it may order the department to

1 release the requested information after the department takes any
2 precautionary measures required under this section. The court shall not
3 authorize the release of initial reports of abuse or neglect.

4 F. Through September 30, 1997, pursuant to rules adopted by the
5 department, a person who is not listed in subsection C or D of this section
6 may request generically identified records and files on cases of child abuse
7 or neglect. The department shall edit these records and files to protect the
8 identity of the person who made the report of abuse or neglect as well as the
9 victim and the victim's parents or foster parents and any other person the
10 department believes would be endangered by the disclosure.

11 G. Through September 30, 1997, a person who requests information
12 pursuant to subsection F of this section shall make a request in writing to
13 the department. The department may charge a fee to cover the cost to search
14 for and prepare the case file, including editing, copying and labor charges.
15 Within three days after receiving the request the department shall forward
16 an estimate of this fee to the person who made the request. The department
17 shall not charge a fee if the request is made for judicial or legislative
18 oversight purposes. The person requesting the file shall submit cash, a
19 credit card or a money order to cover the estimated fee before the
20 department may prepare the file for release. The department may contract
21 with vendors for case file preparation services. The department shall
22 prepare a file within ten working days after the department receives the
23 money order unless the requesting party authorizes a longer time period. The
24 department shall not release a file until all fees are paid in full.

25 H. Before it releases records and files under this section, the
26 department shall take whatever precautions it determines are reasonably
27 necessary to protect the identity or safety of a person who reports child
28 abuse or neglect and any other person if the department believes that
29 disclosure of the information would be likely to endanger the life or safety
30 of the person. These measures may include withholding or editing portions
31 of the information contained in the records and files. The department may
32 charge the recipient of records and files a reasonable fee that covers the
33 department's costs to process and edit that information if the request is not
34 made for legislative oversight or judicial purposes.

35 I. This section does not prevent the department from summarizing the
36 outcome of a child protective services investigation to the person who
37 reported the suspected child abuse or neglect.

38 J. Through September 30, 1997, the department shall transmit monies
39 collected under this section to the state treasurer for deposit in the
40 children and family services training program fund established by section
41 8-503.01.

42 K. Through September 30, 1997, a person who is entitled to receive
43 records and files under this section shall request this information in a
44 manner prescribed by the department by rule. The rules shall not hinder or

1 delay disclosure and shall be consistent with the requirements of this
2 section.

3 L. Through September 30, 1997, if the department receives a request
4 that complies with this section and department rules, it shall provide the
5 requested information after it takes the precautionary measures and collects
6 all fees as prescribed in this section.

7 M. Through September 30, 1997, identifying information released
8 pursuant to subsection B of this section is confidential and shall not be
9 further released or disclosed to persons or entities that are not entitled
10 to this information under this section and rules adopted under this section.

11 N. Through September 30, 1997, before it adopts a rule under this
12 section the department shall forward a copy of a proposed rule to the
13 appropriate senate and house committees at least thirty days before the
14 department is scheduled to adopt the rule. Each committee shall forward the
15 committee's suggested changes to the director who shall adopt the rule after
16 considering these comments.

17 O. A person shall not disclose, receive, make use of, authorize the
18 use of, knowingly permit the use of or participate or acquiesce in the use
19 of any identifying information that relates to a proceeding brought under
20 this article if that information is taken directly or indirectly from records
21 and files that are compiled under this article unless these items have been
22 released under this section and are used only for those purposes permitted
23 by court order or this section.

24 P. This section does not prohibit persons employed by the court, the
25 division or any agency from conducting the investigation or performing other
26 duties pursuant to this article done within the normal course of their
27 employment.

28 Q. BEFORE IT RELEASES INFORMATION CONTAINED IN A CHILD WELFARE AGENCY
29 LICENSING RECORD, THE DEPARTMENT SHALL EDIT ANY REPORTS OF ABUSE AND NEGLECT
30 WITHIN THESE RECORDS BY REMOVING PERSONALLY IDENTIFYING INFORMATION RELATING
31 TO THE IDENTITY OF THE PERSON WHO MADE THE CHILD PROTECTIVE SERVICES REPORT
32 OF ABUSE OR NEGLECT, THE VICTIM, THE VICTIM'S PARENTS, THE PERSON WHO IS THE
33 SUBJECT OF AN INVESTIGATION AND A PERSON WHOSE LIFE IS ENDANGERED BY THE
34 DISCLOSURE.

35 ~~Q.~~ R. A person who violates this section is guilty of a class 2
36 misdemeanor.

37 ~~R.~~ S. For the purposes of this section, "records and files" includes
38 all information the department gathers during the course of ~~a~~ A CHILD
39 PROTECTIVE SERVICES investigation conducted under this article from the time
40 a file is opened and until it is closed ~~and includes information on a~~
41 ~~specific case of child abuse or neglect that may be located in a separate~~
42 ~~licensing file.~~ RECORDS AND FILES DO NOT INCLUDE INFORMATION THAT IS
43 CONTAINED IN CHILD WELFARE AGENCY LICENSING RECORDS.

1 Sec. 2. Repeal

2 Section 8-546.07, Arizona Revised Statutes, as amended by Laws 1995,
3 chapter 266, section 1, is repealed.

4 Sec. 3. Delayed repeal

5 Section 8-546.07, Arizona Revised Statutes, as amended by section 1 of
6 this act, is repealed from and after September 30, 1997.

7 Sec. 4. Section 8-546.11, Arizona Revised Statutes, is amended to
8 read:

9 8-546.11. Investigative records and reports; confidentiality;
10 exceptions; access; violation; classification;
11 definition

12 A. A person who is the subject of an investigation under this article,
13 the alleged victim and the alleged victim's siblings have a right of privacy
14 that may not be directly or indirectly waived by another person who is a
15 subject of the investigation.

16 B. Beginning from and after September 30, 1997, department records and
17 files on specific cases of child abuse and neglect are confidential. All
18 files, records, reports, and other papers compiled in accordance with this
19 article, whether filed in or in possession of the court, the division, or
20 child placement agency or any other agency or association, ~~shall be~~ ARE
21 confidential and shall be withheld from public inspection.

22 C. Beginning from and after September 30, 1997, pursuant to the
23 requirements of this section regarding the release of information, the
24 following persons and entities may obtain confidential records and files:

25 1. Department employees who require this information to perform their
26 official duties.

27 2. Employees of the department of law, a court or a law enforcement
28 agency of this state and the foster care review board if this information is
29 necessary to perform official duties.

30 3. A multidisciplinary case consultation team that the department of
31 economic security uses to review or examine a case of suspected child abuse
32 or neglect or to provide services to a child or the child's family.

33 4. A physician or person designated by the physician who:

34 (a) Reviews or examines a suspected case of child abuse or neglect or
35 provides services to a child.

36 (b) Has as a patient a child who the physician reasonably suspects is
37 the victim of child abuse or neglect and the physician requires this
38 information to provide a diagnosis, prognosis or treatment for the child.

39 5. A foster parent under contract with this state to permit the foster
40 parent to care for a particular child.

41 6. A grand jury.

42 7. The department of education or a particular school district to
43 allow the department of education or a school district to provide services
44 to a particular child.

1 8. Subject to any additional limitations imposed under chapter 1,
2 article 1 of this title, adoptive parents.

3 9. A child who is named in department of economic security records as
4 the victim of child abuse or neglect or that child's guardian ad litem, court
5 appointed special advocate or court appointed counsel.

6 10. A person, agency or organization engaged in a bona fide research
7 or evaluation project, but without information identifying individuals named
8 in a record or file, unless all of the following apply:

9 (a) Having that information open for review is essential to the
10 research or evaluation.

11 (b) The director of the department of economic security gives prior
12 written approval.

13 (c) The child named in the file or record, through the child's
14 representative, gives permission to release the information.

15 11. Agencies of the federal government, this state or a political
16 subdivision of this state for official purposes. All information received
17 by a government agency pursuant to this paragraph shall be maintained as
18 confidential, except where pertinent to a criminal prosecution.

19 12. A standing committee of the legislature or a committee appointed
20 by the president of the senate or the speaker of the house of representatives
21 for purposes of conducting investigations related to the legislative
22 oversight of the department of economic security and this information shall
23 not be further disclosed.

24 13. A PERSON OR AGENCY REQUIRED TO PERFORM A PREADOPTON CERTIFICATION
25 INVESTIGATION PURSUANT TO SECTION 8-105 IF THE INFORMATION IS NEEDED FOR SUCH
26 AN INVESTIGATION.

27 14. AN APPROPRIATE STATE OFFICIAL RESPONSIBLE FOR ADMINISTRATION OF
28 CHILD PROTECTIVE SERVICES OR FOR OVERSIGHT OF THE ENABLING OR APPROPRIATING
29 LEGISLATION, IN CARRYING OUT THAT OFFICIAL'S FUNCTIONS. IN ORDER TO REQUEST
30 A FILE PURSUANT TO THIS SECTION:

31 (a) THE LEGISLATOR SHALL SUBMIT A WRITTEN REQUEST FOR CHILD PROTECTIVE
32 SERVICE RECORDS TO THE PRESIDING OFFICER OF THE BODY OF WHICH THAT PERSON IS
33 A MEMBER. THE REQUEST SHALL STATE THE NAME OF THE PERSON WHOSE CASE FILE IS
34 TO BE REVIEWED AND ANY OTHER INFORMATION THAT WILL ASSIST THE DEPARTMENT IN
35 LOCATING THE FILE. THE REQUEST SHALL ALSO INCLUDE THE DEPARTMENT'S OFFICE
36 AT WHICH THE STATE LEGISLATOR WANTS TO REVIEW THE FILE.

37 (b) THE PRESIDING OFFICER SHALL FORWARD THE REQUEST TO THE DEPARTMENT
38 WITHIN FIVE WORKING DAYS OF THE RECEIPT OF THE REQUEST.

39 (c) THE DEPARTMENT SHALL MAKE THE NECESSARY ARRANGEMENTS FOR THE STATE
40 LEGISLATOR TO REVIEW THE FILE AT AN OFFICE OF THE DEPARTMENT OF ECONOMIC
41 SECURITY, CHOSEN BY THE STATE LEGISLATOR, WITHIN TEN WORKING DAYS.

42 (d) THE STATE LEGISLATOR SHALL SIGN A FORM, PRIOR TO REVIEWING THE
43 FILE, WHICH OUTLINES THE CONFIDENTIALITY LAWS GOVERNING CHILD PROTECTIVE
44 SERVICE FILES AND PENALTIES FOR FURTHER RELEASE OF THE INFORMATION.

1 D. A person about whom a report has been made may obtain a copy of the
2 child protective services report and investigative findings relating to that
3 report. The department shall not disclose the identity of the reporting
4 person and the identity of any person providing information.

5 E. Beginning from and after September 30, 1997, a person or entity
6 that is not specifically authorized in this section to obtain information
7 from records and files may petition a judge of the superior court to order
8 the department to release that information. The court shall balance the
9 rights of the parties entitled to confidentiality pursuant to this section
10 against the rights of the parties seeking release of the information. The
11 potential benefit or harm from releasing the information sought shall be
12 considered. The court may release otherwise confidential information only
13 where the rights of the parties seeking the information and any benefits from
14 releasing the information sought ~~outweighs~~ OUTWEIGH the rights of the parties
15 entitled to confidentiality and any harm that may result from releasing the
16 information sought. The court may require the department to submit the
17 requested information to the court for an in camera inspection. If the court
18 determines that an order for release is deemed proper, the court may restrict
19 the use, disclosure or dissemination of the information sought in order to
20 protect or minimize harm to any person involved. If the court orders the
21 release of information pursuant to this subsection, it may order the
22 department to release the requested information after the department takes
23 any precautionary measures required under this section. The court shall not
24 authorize the release of initial reports of abuse or neglect.

25 F. Beginning from and after September 30, 1997, before it releases
26 records and files under this section, the department shall take whatever
27 precautions it determines are reasonably necessary to protect the identity
28 or safety of a person who reports child abuse or neglect and any other person
29 if the department believes that disclosure of the information would be likely
30 to endanger the life or safety of the person. These measures may include
31 withholding or editing portions of the information contained in the records
32 and files. The department may charge the recipient of records and files a
33 reasonable fee that covers the department's costs to process and edit that
34 information if the request is not made for legislative oversight or judicial
35 purposes.

36 G. This section does not prevent the department from summarizing the
37 outcome of a child protective services investigation to the person who
38 reported the suspected child abuse or neglect.

39 H. Beginning from and after September 30, 1997, the department shall
40 transmit monies collected under subsection F of this section to the state
41 treasurer for deposit in the children and family services training program
42 fund established by section 8-503.01.

1 I. Beginning from and after September 30, 1997, a person who is
2 entitled to receive records and files under this section shall request this
3 information in a manner prescribed by the department by rule. The rules
4 shall not hinder or delay disclosure.

5 J. Beginning from and after September 30, 1997, if the department
6 receives a request that complies with this section, it shall provide the
7 requested information after it takes the precautionary measures prescribed
8 in subsection F of this section.

9 K. Beginning from and after September 30, 1997, except as may be
10 permitted by court order any files, records or information released pursuant
11 to this section shall remain confidential and shall not be further released
12 or disclosed to persons or entities that are not entitled to review them
13 pursuant to this section.

14 L. A person shall not disclose, receive, make use of, authorize the
15 use of, knowingly permit the use of or participate or acquiesce in the use
16 of any identifying information that relates to a proceeding brought under
17 this article if that information is taken directly or indirectly from records
18 and files that are compiled under this article unless these items have been
19 released under this section and are used only for those purposes permitted
20 by court order or this section.

21 M. This section does not prohibit persons employed by the court, the
22 division or any agency from conducting the investigation or performing other
23 duties pursuant to this article done within the normal course of their
24 employment.

25 N. BEFORE IT RELEASES INFORMATION CONTAINED IN A CHILD WELFARE AGENCY
26 LICENSING RECORD, THE DEPARTMENT SHALL EDIT ANY REPORTS OF ABUSE AND NEGLECT
27 WITHIN THESE RECORDS BY REMOVING PERSONALLY IDENTIFYING INFORMATION RELATING
28 TO THE IDENTITY OF THE PERSON WHO MADE THE CHILD PROTECTIVE SERVICES REPORT
29 OF ABUSE OR NEGLECT, THE VICTIM, THE VICTIM'S PARENTS, THE PERSON WHO IS THE
30 SUBJECT OF AN INVESTIGATION AND A PERSON WHOSE LIFE IS ENDANGERED BY THE
31 DISCLOSURE.

32 ~~H.~~ O. A person who violates this section is guilty of a class 2
33 misdemeanor.

34 ~~Q.~~ P. For the purposes of this section, "records and files" includes
35 all information the department gathers during the course of ~~an~~ A CHILD
36 PROTECTIVE SERVICES investigation conducted under this article from the time
37 a file is opened and until it is closed ~~and includes information on a~~
38 ~~specific case of child abuse or neglect that may be located in a separate~~
39 ~~licensing file.~~ RECORDS AND FILES DO NOT INCLUDE INFORMATION THAT IS
40 CONTAINED IN CHILD WELFARE AGENCY LICENSING RECORDS.

APPROVED BY THE GOVERNOR APRIL 23, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 1996