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FILED

Jane Dee Hull
Secretary of State

CHAPTER 291

SENATE BILL 1395

AN ACT

AMENDING SECTIONS 8-201, 8-531 AND 8-546, ARIZONA REVISED STATUTES; 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 8-201, Arizona Revised Statutes, is amended to
3 read:

4 8-201. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Abandoned" means the failure of the parent to provide reasonable
7 support and to maintain regular contact with the child, including the
8 providing of normal supervision. ABANDONED INCLUDES A JUDICIAL FINDING THAT
9 A PARENT HAS MADE ONLY MINIMAL EFFORTS TO SUPPORT AND COMMUNICATE WITH THE
10 CHILD. Failure to maintain a normal parental relationship with the child
11 without just cause for a period of six months shall constitute prima facie
12 evidence of abandonment.

13 2. "Abuse" means the infliction or allowing of physical injury,
14 impairment of bodily function or disfigurement or the infliction of or
15 allowing another person to cause serious emotional damage as evidenced by
16 severe anxiety, depression, withdrawal or untoward aggressive behavior and
17 which emotional damage is diagnosed by a medical doctor or psychologist
18 pursuant to section 8-223 and which is caused by the acts or omissions of an

1 individual having care, custody and control of a child. Abuse shall include
2 inflicting or allowing sexual abuse pursuant to section 13-1404, sexual
3 conduct with a minor pursuant to section 13-1405, sexual assault pursuant to
4 section 13-1406, molestation of a child pursuant to section 13-1410,
5 commercial sexual exploitation of a minor pursuant to section 13-3552,
6 sexual exploitation of a minor pursuant to section 13-3553, incest pursuant
7 to section 13-3608 or child prostitution pursuant to section 13-3212.

8 3. "Adult" means a person eighteen years of age or older.

9 4. "Alcohol offense" means the purchase, possession or consumption by
10 a juvenile of spirituous liquors in violation of section 4-244.

11 5. "Award" or "commit" means to assign legal custody.

12 6. "Child", "youth" or "juvenile" means an individual who is under the
13 age of eighteen years.

14 7. "Custodian" means a person, other than a parent or legal guardian,
15 who stands in loco parentis to the child or a person to whom legal custody
16 of the child has been given by order of the juvenile court.

17 8. "Delinquency hearing" means a proceeding in the juvenile court to
18 determine whether a child has committed a specific delinquent act as set
19 forth in a petition.

20 9. "Delinquent act" includes an act by a child, which if committed by
21 an adult would be a criminal offense including a violation of section 4-244,
22 paragraph 9, a violation of any law of this state, or of another state if the
23 act occurred in that state, or a law of the United States, or a violation of
24 any law which can only be violated by a minor and which has been designated
25 as a delinquent offense, or any ordinance of a city, county or political
26 subdivision of this state defining crime, except that any child remanded for
27 prosecution as an adult shall not be adjudicated as a delinquent child for
28 the same offense for which the child was remanded.

29 10. "Delinquent child" means a child who is adjudicated to have
30 committed a delinquent act.

31 11. "Dependent child" means a child who is adjudicated to be:

32 (a) In need of proper and effective parental care and control and has
33 no parent or guardian, or one who has no parent or guardian willing to
34 exercise or capable of exercising such care and control.

35 (b) Destitute or who is not provided with the necessities of life,
36 including adequate food, clothing, shelter or medical care, or whose home is
37 unfit by reason of abuse, neglect, cruelty or depravity by a parent, A
38 guardian, or any other person having custody or care of the child.

39 (c) Under the age of eight years who is found to have committed an act
40 that would result in adjudication as a delinquent or incorrigible child if
41 committed by an older child.

42 12. "Detention" means the temporary care of a child who requires secure
43 custody in physically restricting facilities for the protection of the child
44 or the community pending court disposition.

1 13. "Incorrigible child" means a child adjudicated as one who refuses
2 to obey the reasonable and proper orders or directions of a parent, guardian
3 or custodian, and who is beyond the control of such person, or any child who
4 is habitually truant from school as ~~provided~~ DEFINED in section 15-803,
5 subsection C, or who is a runaway from THE CHILD'S home or parent, guardian
6 or custodian, or who habitually behaves in such a manner as to injure or
7 endanger the morals or health of self or others, or who commits any act
8 constituting an offense which can only be committed by a minor and which is
9 not designated as a delinquent offense, or who fails to obey any lawful order
10 of a court of competent jurisdiction given in a noncriminal action.

11 14. "Juvenile court" means the juvenile division of the superior court
12 when exercising its jurisdiction over children in any proceeding relating to
13 delinquency, dependency or incorrigibility.

14 15. "Law enforcement officer" means a peace officer, sheriff, deputy
15 sheriff, municipal police officer or constable.

16 16. "Medical director of a mental health agency" means a psychiatrist,
17 or licensed physician experienced in psychiatric matters, who is designated
18 in writing by the governing body of the agency as the person in charge of the
19 medical services of the agency, or a psychiatrist designated by such
20 governing body to act for the director. The term includes the superintendent
21 of the state hospital.

22 17. "Mental health agency" means any private or public facility WHICH
23 IS licensed by this state as a mental health treatment agency, a psychiatric
24 hospital, a psychiatric unit of a general hospital or a residential treatment
25 center for emotionally disturbed children AND which utilizes secure settings
26 or mechanical restraints.

27 18. "Protective supervision" means supervision ordered by the juvenile
28 court of children found to be dependent or incorrigible.

29 19. "Shelter care" means the temporary care of a child in any public
30 or private facility or home licensed by this state offering a physically
31 nonsecure environment, which is characterized by the absence of physically
32 restricting construction or hardware and provides the child access to the
33 surrounding community.

34 Sec. 2. Section 8-531, Arizona Revised Statutes, is amended to read:

35 8-531. Definitions

36 In this article, unless the context otherwise requires:

37 1. "Abandonment" means the failure of a parent to provide reasonable
38 support and to maintain regular contact with the child, including providing
39 normal supervision. ABANDONMENT INCLUDES A JUDICIAL FINDING THAT A PARENT
40 HAS MADE ONLY MINIMAL EFFORTS TO SUPPORT AND COMMUNICATE WITH THE CHILD.
41 Failure to maintain a normal parental relationship with the child without
42 just cause for a period of six months constitutes prima facie evidence of
43 abandonment.

1 2. "Abuse" means the infliction of or allowing physical injury,
2 impairment of bodily function or disfigurement or the infliction of or
3 allowing another person to cause serious emotional damage as evidenced by
4 severe anxiety, depression, withdrawal or aggressive behavior and which
5 emotional damage is diagnosed by a medical doctor or psychologist pursuant
6 to section 8-223 and which is caused by the acts or omissions of an
7 individual having care, custody and control of a child. Abuse shall include
8 inflicting or allowing sexual abuse pursuant to section 13-1404, sexual
9 conduct with a minor pursuant to section 13-1405, sexual assault pursuant to
10 section 13-1406, molestation of a child pursuant to section 13-1410,
11 commercial sexual exploitation of a minor pursuant to section 13-3552, sexual
12 exploitation of a minor pursuant to section 13-3553, incest pursuant to
13 section 13-3608 or child prostitution pursuant to section 13-3212.

14 3. "Agency" means an agency licensed by the division to place children
15 for adoption.

16 4. "Child" means a person less than eighteen years of age.

17 5. "Custodian" means a person, other than a parent or legal guardian,
18 who stands in loco parentis to the child or a person to whom legal custody
19 of the child has been given by order of a court of competent jurisdiction.

20 6. "Custody" or "legal custody" means a status embodying all of the
21 following rights and responsibilities:

22 (a) The right to have physical possession of the child.

23 (b) The right and the duty to protect, train and discipline the child.

24 (c) The responsibility to provide the child with adequate food,
25 clothing, shelter, education and medical care, provided that such rights and
26 responsibilities shall be exercised subject to the powers, rights, duties and
27 responsibilities of the guardian of the person and subject to the residual
28 parental rights and responsibilities if they have not been terminated by
29 judicial decree.

30 7. "Division" means the department of economic security.

31 8. "Guardian ad litem" means a person appointed by the court to
32 protect the interest of a minor or an incompetent in a particular case before
33 the court.

34 9. "Guardianship of the person" with respect to a minor means the duty
35 and authority to make important decisions in matters affecting the minor
36 including but not necessarily limited either in number or kind to:

37 (a) The authority to consent to marriage, to enlistment in the armed
38 forces of the United States and to major medical, psychiatric and surgical
39 treatment, to represent the minor in legal actions, and to make other
40 decisions concerning the child of substantial legal significance.

41 (b) The authority and duty of reasonable visitation, except to the
42 extent that such right of visitation has been limited by court order.

1 (c) The rights and responsibilities of legal custody, except where
2 legal custody has been vested in another individual or in an authorized
3 agency.

4 (d) When the parent-child relationship has been terminated by judicial
5 decree with respect to the parents, or only living parent, or when there is
6 no living parent, the authority to consent to the adoption of the child and
7 to make any other decision concerning the child which the child's parents
8 could make.

9 10. "Juvenile court" means the juvenile division of the superior court.

10 11. "Neglect" or "neglected" means the inability or unwillingness of
11 a parent, guardian or custodian of a child to provide that child with
12 supervision, food, clothing, shelter or medical care if that inability or
13 unwillingness causes substantial risk of harm to the child's health or
14 welfare.

15 12. "Parent" means the natural or adoptive mother or father of a child.

16 13. "Parent-child relationship" includes all rights, privileges, duties
17 and obligations existing between parent and child, including inheritance
18 rights.

19 14. "Parties" includes the child, the petitioners and any parent of the
20 child required to consent to the adoption pursuant to section 8-106.

21 Sec. 3. Section 8-546, Arizona Revised Statutes, is amended to read:
22 8-546. Definitions; exemption

23 A. In this chapter, unless the context otherwise requires:

24 1. "Abandoned" means the failure of the parent to provide reasonable
25 support and to maintain regular contact with the child, including the
26 providing of normal supervision, when such failure is accompanied by an
27 intention on the part of the parent to permit such condition to continue for
28 an indefinite period in the future. ABANDONED INCLUDES A JUDICIAL FINDING
29 THAT A PARENT HAS MADE ONLY MINIMAL EFFORTS TO SUPPORT AND COMMUNICATE WITH
30 THE CHILD. Failure to maintain a normal parental relationship with the child
31 without just cause for a period of six months shall constitute prima facie
32 evidence of abandonment.

33 2. "Abuse" means the infliction or allowing of physical injury,
34 impairment of bodily function or disfigurement or the infliction of or
35 allowing another person to cause serious emotional damage as evidenced by
36 severe anxiety, depression, withdrawal or untoward aggressive behavior and
37 which emotional damage is diagnosed by a medical doctor or psychologist
38 pursuant to section 8-223 and which is caused by the acts or omissions of an
39 individual having care, custody and control of a child. Abuse shall include
40 inflicting or allowing sexual abuse pursuant to section 13-1404, sexual
41 conduct with a minor pursuant to section 13-1405, sexual assault pursuant to
42 section 13-1406, molestation of a child pursuant to section 13-1410,
43 commercial sexual exploitation of a minor pursuant to section 13-3552, sexual

1 exploitation of a minor pursuant to section 13-3553, incest pursuant to
2 section 13-3608 or child prostitution pursuant to section 13-3212.

3 3. "Child", "youth" or "juvenile" means an individual who is under the
4 age of eighteen years.

5 4. "Custodian" means a person, other than a parent or legal guardian,
6 who stands in loco parentis to the child or a person to whom legal custody
7 of the child has been given by order of a court of competent jurisdiction.

8 5. "Department" means the department of economic security.

9 6. "Dependent child" means a child who is adjudicated to be:

10 (a) In need of proper and effective parental care and control and has
11 no parent or guardian, or one who has no parent or guardian willing to
12 exercise or capable of exercising such care and control.

13 (b) Destitute or who is not provided with the necessities of life,
14 including adequate food, clothing, shelter or medical care, or whose home is
15 unfit for him by reason of abuse, neglect, cruelty or depravity by either of
16 his parents, his guardian or any other person having his custody or care.

17 (c) Under the age of eight years and who is found to have committed
18 an act that would result in adjudication as a delinquent or incorrigible
19 child if committed by an older child.

20 7. "Neglect" or "neglected" means the inability or unwillingness of
21 a parent, guardian or custodian of a child to provide that child with
22 supervision, food, clothing, shelter or medical care if that inability or
23 unwillingness causes substantial risk of harm to the child's health or
24 welfare.

25 8. "Protective services" means a program of identifiable and
26 specialized child welfare which seeks to prevent dependency, abuse and
27 exploitation of children by reaching out with social services to stabilize
28 family life, and to preserve the family unit by focusing on families where
29 unresolved problems have produced visible signs of dependency or abuse and
30 the home situation presents actual and potential hazards to the physical or
31 emotional well-being of children. The program shall seek to strengthen
32 parental capacity and ability to provide good child care.

33 9. "Protective services worker" means a person who has been selected
34 by and trained under the requirements prescribed by the department of
35 economic security and who assists in carrying out the provisions of this
36 article.

37 10. "Worker" means a protective services worker as defined in this
38 section.

39 B. Notwithstanding any other provision of this chapter, no child who
40 in good faith is being furnished Christian Science treatment by a duly
41 accredited practitioner shall, for that reason alone, be considered to be an
42 abused, neglected or dependent child.

43 Sec. 4. Section 8-546.07, Arizona Revised Statutes, as amended by Laws
44 1995, chapter 176, section 3, is amended to read:

1 8-546.07. Right of privacy; records and reports;
2 confidentiality; exceptions; access; violation;
3 classification; definition

4 A. A person who is the subject of an investigation under this article,
5 the alleged victim and the alleged victim's siblings have a right of privacy
6 that may not be directly or indirectly waived by another person who is a
7 subject of the investigation. A PERSON WHO IS THE SUBJECT OF AN
8 INVESTIGATION UNDER THIS ARTICLE MAY REQUEST THAT A HEARING OR TRIAL RELATING
9 TO THE DEPENDENCY PROCEEDING BE OPEN TO THE PUBLIC. THE COURT SHALL ORDER
10 THE HEARING TO BE OPEN TO THE PUBLIC UNLESS THE COURT DETERMINES FOR GOOD
11 CAUSE THAT ALL OR PART OF THE HEARING SHALL BE CLOSED.

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

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

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

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

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

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

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

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

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

37 6. A grand jury.

38 7. The department of education or a particular school district to
39 allow the department of education or a school district to provide services
40 to a particular child.

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

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

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

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

9 (b) The director of the department of economic security gives prior
10 written approval.

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

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

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

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

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

27 D. A person WHO IS A PARTY IN A DEPENDENCY OR TERMINATION OF PARENTAL
28 RIGHTS PROCEEDING AND about whom a report has been made may obtain a copy of
29 the child protective services ~~report and investigative findings relating to~~
30 ~~that report~~ CASE FILE. The department shall not disclose THE LOCATION OF THE
31 SUBJECT'S SPOUSE AND CHILDREN, the identity of the reporting person, ~~and~~ the
32 identity of any person providing information AND ANY OTHER PERSON IF THE
33 DEPARTMENT BELIEVES THAT DISCLOSURE OF THE INFORMATION WOULD BE LIKELY TO
34 ENDANGER THE LIFE OR SAFETY OF THE PERSON. THE DEPARTMENT SHALL PREPARE A
35 COPY OF THE CASE FILE WITHIN A TIME THAT ALLOWS THE PERSON WHO REQUESTS THE
36 FILE TIME TO REVIEW IT BEFORE A COURT PROCEEDING.

37 E. A PERSON WHO IS NOT A PARTY IN A DEPENDENCY OR TERMINATION OF
38 PARENTAL RIGHTS PROCEEDING AND ABOUT WHOM A REPORT HAS BEEN MADE MAY OBTAIN
39 A COPY OF THE CHILD PROTECTIVE SERVICES REPORT. THE DEPARTMENT SHALL NOT
40 DISCLOSE THE IDENTITY OF THE REPORTING PERSON AND THE IDENTITY OF ANY PERSON
41 PROVIDING INFORMATION.

42 F. Through September 30, 1997, a person or entity that is not
43 specifically authorized in subsection C or D of this section to obtain
44 information from records and files may petition a judge of the superior court

1 to order the department to release that information. The court shall balance
2 the rights of the parties entitled to confidentiality pursuant to this
3 section against the rights of the parties seeking release of the information.
4 The potential benefit or harm from releasing the information sought shall be
5 considered. The court may release otherwise confidential information only
6 where the rights of the parties seeking the information and any benefits from
7 releasing the information sought ~~outweighs~~ OUTWEIGH the rights of the parties
8 entitled to confidentiality and any harm that may result from releasing the
9 information sought. The court may require the department to submit the
10 requested information to the court for an in camera inspection. Where an
11 order for release is deemed proper, the court may restrict the use,
12 disclosure or dissemination of the information sought in order to protect or
13 minimize harm to any person involved. If the court orders the release of
14 information pursuant to this subsection, it may order the department to
15 release the requested information after the department takes any
16 precautionary measures required under this section. The court shall not
17 authorize the release of initial reports of abuse or neglect.

18 ~~F~~ G. Through September 30, 1997, pursuant to rules adopted by the
19 department, a person who is not listed in subsection C or D of this section
20 may request generically identified records and files on cases of child abuse
21 or neglect. The department shall edit these records and files to protect the
22 identity of the person who made the report of abuse or neglect as well as the
23 victim and the victim's parents or foster parents and any other person the
24 department believes would be endangered by the disclosure.

25 ~~G~~ H. Through September 30, 1997, a person who requests information
26 pursuant to subsection ~~F~~ G of this section shall make a request in writing
27 to the department. The department may charge a fee to cover the cost to
28 search for and prepare the case file, including editing, copying and labor
29 charges. Within three days after receiving the request the department shall
30 forward an estimate of this fee to the person who made the request. The
31 department shall not charge a fee if the request is made for judicial or
32 legislative oversight purposes. The person requesting the file shall submit
33 cash, a credit card or a money order to cover the estimated fee before the
34 department may prepare the file for release. The department may contract
35 with vendors for case file preparation services. The department shall
36 prepare a file within ten working days after the department receives the
37 ~~money order~~ PAYMENT unless the requesting party authorizes a longer time
38 period. The department shall not release a file until all fees are paid in
39 full.

40 ~~H~~ I. Before it releases records and files under this section, the
41 department shall take whatever precautions it determines are reasonably
42 necessary to protect the identity or safety of a person who reports child
43 abuse or neglect and any other person if the department believes that
44 disclosure of the information would be likely to endanger the life or safety

1 of the person. These measures may include withholding or editing portions
2 of the information contained in the records and files. The department may
3 charge the recipient of records and files a reasonable fee that covers the
4 department's costs to process and edit that information if the request is not
5 made for legislative oversight or judicial purposes.

6 ~~I~~ J. This section does not prevent the department from summarizing
7 the outcome of a child protective services investigation to the person who
8 reported the suspected child abuse or neglect.

9 ~~J~~ K. Through September 30, 1997, the department shall transmit
10 monies collected under this section to the state treasurer for deposit in the
11 children and family services training program fund established by section
12 8-503.01.

13 ~~K~~ L. Through September 30, 1997, a person who is entitled to receive
14 records and files under this section shall request this information in a
15 manner prescribed by the department by rule. The rules shall not hinder or
16 delay disclosure and shall be consistent with the requirements of this
17 section.

18 ~~L~~ M. Through September 30, 1997, if the department receives a
19 request that complies with this section and department rules, it shall
20 provide the requested information after it takes the precautionary measures
21 and collects all fees as prescribed in this section.

22 ~~M~~ N. Through September 30, 1997, identifying information released
23 pursuant to subsection B of this section is confidential and shall not be
24 further released or disclosed to persons or entities that are not entitled
25 to this information under this section and rules adopted under this section.

26 ~~N~~ O. Through September 30, 1997, before it adopts a rule under this
27 section the department shall forward a copy of a proposed rule to the
28 appropriate senate and house committees at least thirty days before the
29 department is scheduled to adopt the rule. Each committee shall forward the
30 committee's suggested changes to the director who shall adopt the rule after
31 considering these comments.

32 ~~O~~ P. A person shall not disclose, receive, make use of, authorize
33 the use of, knowingly permit the use of or participate or acquiesce in the
34 use of any identifying information that relates to a proceeding brought under
35 this article if that information is taken directly or indirectly from records
36 and files that are compiled under this article unless these items have been
37 released under this section and are used only for those purposes permitted
38 by court order or this section.

39 ~~P~~ Q. This section does not prohibit persons employed by the court,
40 the division or any agency from conducting the investigation or performing
41 other duties pursuant to this article done within the normal course of their
42 employment.

43 R. BEFORE THE DEPARTMENT RELEASES INFORMATION CONTAINED IN A CHILD
44 WELFARE AGENCY LICENSING RECORD, THE DEPARTMENT SHALL EDIT ANY REPORTS OF

1 ABUSE AND NEGLECT WITHIN THESE RECORDS BY REMOVING PERSONALLY IDENTIFYING
2 INFORMATION RELATING TO THE IDENTITY OF THE PERSON WHO MADE THE CHILD
3 PROTECTIVE SERVICES REPORT OF ABUSE OR NEGLECT, THE VICTIM, THE VICTIM'S
4 PARENTS, THE PERSON WHO IS THE SUBJECT OF AN INVESTIGATION AND A PERSON WHOSE
5 LIFE IS ENDANGERED BY THE DISCLOSURE.

6 ~~R.~~ S. A person who violates this section is guilty of a class 2
7 misdemeanor.

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

15 Sec. 5. Repeal

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

18 Sec. 6. Delayed repeal

19 Section 8-546.07, Arizona Revised Statutes, as amended by section 4 of
20 this act, is repealed from and after September 30, 1997.

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

23 8-546.11. Investigative records and reports; confidentiality;
24 exceptions; access; violation; classification;
25 definition

26 A. A person who is the subject of an investigation under this article,
27 the alleged victim and the alleged victim's siblings have a right of privacy
28 that may not be directly or indirectly waived by another person who is a
29 subject of the investigation. A PERSON WHO IS THE SUBJECT OF AN
30 INVESTIGATION UNDER THIS ARTICLE MAY REQUEST THAT A HEARING OR TRIAL RELATING
31 TO THE DEPENDENCY PROCEEDING BE OPEN TO THE PUBLIC. THE COURT SHALL ORDER
32 THE HEARING TO BE OPEN TO THE PUBLIC UNLESS THE COURT DETERMINES FOR GOOD
33 CAUSE THAT ALL OR PART OF THE HEARING SHALL BE CLOSED.

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

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

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

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

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

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

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

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

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

15 6. A grand jury.

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

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

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

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

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

29 (b) The director of the department of economic security gives prior
30 written approval.

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

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

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

42 13. A PERSON OR AGENCY REQUIRED TO PERFORM A PREADoption CERTIFICATION
43 INVESTIGATION PURSUANT TO SECTION 8-105 IF THE INFORMATION IS NEEDED FOR THE
44 INVESTIGATION.

1 D. A person WHO IS A PARTY IN A DEPENDENCY OR TERMINATION OF PARENTAL
2 RIGHTS PROCEEDING AND about whom a report has been made may obtain a copy of
3 the child protective services ~~report and investigative findings relating to~~
4 ~~that report~~ CASE FILE. The department shall not disclose THE LOCATION OF THE
5 SUBJECT'S SPOUSE AND CHILDREN, the identity of the reporting person, and the
6 identity of any person providing information AND ANY OTHER PERSON IF THE
7 DEPARTMENT BELIEVES THAT DISCLOSURE OF THE INFORMATION WOULD BE LIKELY TO
8 ENDANGER THE LIFE OR SAFETY OF THE PERSON. THE DEPARTMENT SHALL PREPARE A
9 COPY OF THE CASE FILE WITHIN A TIME THAT ALLOWS THE PERSON WHO REQUESTS THE
10 FILE TIME TO REVIEW IT BEFORE A COURT PROCEEDING.

11 E. A PERSON WHO IS NOT A PARTY IN A DEPENDENCY OR TERMINATION OF
12 PARENTAL RIGHTS PROCEEDING AND ABOUT WHOM A REPORT HAS BEEN MADE MAY OBTAIN
13 A COPY OF THE CHILD PROTECTIVE SERVICES REPORT. THE DEPARTMENT SHALL NOT
14 DISCLOSE THE IDENTITY OF THE REPORTING PERSON AND THE IDENTITY OF ANY PERSON
15 PROVIDING INFORMATION.

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

36 ~~F.~~ G. Beginning from and after September 30, 1997, before it releases
37 records and files under this section, the department shall take whatever
38 precautions it determines are reasonably necessary to protect the identity
39 or safety of a person who reports child abuse or neglect and any other person
40 if the department believes that disclosure of the information would be likely
41 to endanger the life or safety of the person. These measures may include
42 withholding or editing portions of the information contained in the records
43 and files. The department may charge the recipient of records and files a
44 reasonable fee that covers the department's costs to process and edit that

1 information if the request is not made for legislative oversight or judicial
2 purposes.

3 ~~G~~ H. This section does not prevent the department from summarizing
4 the outcome of a child protective services investigation to the person who
5 reported the suspected child abuse or neglect.

6 ~~H~~ I. Beginning from and after September 30, 1997, the department
7 shall transmit monies collected under subsection ~~F~~ G of this section to the
8 state treasurer for deposit in the children and family services training
9 program fund established by section 8-503.01.

10 ~~I~~ J. Beginning from and after September 30, 1997, a person who is
11 entitled to receive records and files under this section shall request this
12 information in a manner prescribed by the department by rule. The rules
13 shall not hinder or delay disclosure.

14 ~~J~~ K. Beginning from and after September 30, 1997, if the department
15 receives a request that complies with this section, it shall provide the
16 requested information after it takes the precautionary measures prescribed
17 in subsection ~~F~~ G of this section.

18 ~~K~~ L. Beginning from and after September 30, 1997, except as may be
19 permitted by court order any files, records or information released pursuant
20 to this section shall remain confidential and shall not be further released
21 or disclosed to persons or entities that are not entitled to review them
22 pursuant to this section.

23 ~~L~~ M. A person shall not disclose, receive, make use of, authorize
24 the use of, knowingly permit the use of or participate or acquiesce in the
25 use of any identifying information that relates to a proceeding brought under
26 this article if that information is taken directly or indirectly from records
27 and files that are compiled under this article unless these items have been
28 released under this section and are used only for those purposes permitted
29 by court order or this section.

30 ~~M~~ N. This section does not prohibit persons employed by the court,
31 the division or any agency from conducting the investigation or performing
32 other duties pursuant to this article done within the normal course of their
33 employment.

34 O. BEFORE THE DEPARTMENT RELEASES INFORMATION CONTAINED IN A CHILD
35 WELFARE AGENCY LICENSING RECORD, THE DEPARTMENT SHALL EDIT ANY REPORTS OF
36 ABUSE AND NEGLECT WITHIN THESE RECORDS BY REMOVING PERSONALLY IDENTIFYING
37 INFORMATION RELATING TO THE IDENTITY OF THE PERSON WHO MADE THE CHILD
38 PROTECTIVE SERVICES REPORT OF ABUSE OR NEGLECT, THE VICTIM, THE VICTIM'S
39 PARENTS, THE PERSON WHO IS THE SUBJECT OF AN INVESTIGATION AND A PERSON WHOSE
40 LIFE IS ENDANGERED BY THE DISCLOSURE.

41 ~~N~~ P. A person who violates this section is guilty of a class 2
42 misdemeanor.

43 ~~O~~ Q. For the purposes of this section, "records and files" includes
44 all information the department gathers during the course of ~~an~~ A CHILD

1 PROTECTIVE SERVICES investigation conducted under this article from the time
2 a file is opened and until it is closed ~~and includes information on a~~
3 ~~specific case of child abuse or neglect that may be located in a separate~~
4 ~~licensing file.~~ RECORDS AND FILES DO NOT INCLUDE INFORMATION THAT IS
5 CONTAINED IN CHILD WELFARE AGENCY LICENSING RECORDS.

6 Sec. 8. Joint study committee on the confidentiality of child
7 protective services records and proceedings

8 A. The joint study committee on the confidentiality of child
9 protective services records and proceedings is established consisting of the
10 following members:

11 1. Three members of the senate appointed by the president of the
12 senate, not more than two of whom shall be from the same political party.

13 2. Three members of the house of representatives appointed by the
14 speaker, not more than two of whom shall be from the same political party.

15 3. Six members representing the judiciary appointed by the chief
16 justice of the supreme court.

17 B. The committee shall review the division of child protective
18 services in the department of economic security regarding the extent to
19 which:

20 1. Records can and should be open to the public to allow greater
21 public scrutiny and due process.

22 2. Court proceedings relating to dependency and severance petitions
23 can and should be open to the public to allow for increased public access.

24 C. The committee shall submit a report of its findings and
25 recommendations to the governor, the speaker of the house of representatives,
26 the president of the senate, the chief justice of the supreme court, the
27 secretary of state and the director of the department of library, archives
28 and public records on or before November 15, 1996.

29 D. Legislative and supreme court staff shall provide necessary
30 research and technical assistance to the committee.

31 Sec. 9. Delayed repeal

32 Section 8 of this act is repealed from and after December 31, 1996.

APPROVED BY THE GOVERNOR APRIL 29, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 1996