

State of Arizona  
House of Representatives  
Forty-second Legislature  
Second Regular Session  
1996

**FILED**

Jane Dee Hull  
Secretary of State

CHAPTER 324

**HOUSE BILL 2032**

AN ACT

AMENDING SECTION 8-223, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1994, NINTH SPECIAL SESSION, CHAPTER 1, SECTION 2; AMENDING SECTION 8-223, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1994, NINTH SPECIAL SESSION, CHAPTER 1, SECTION 3; AMENDING SECTIONS 8-506, 8-546.01 AND 8-546.02, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-506.01; AMENDING SECTION 8-546.06, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1994, NINTH SPECIAL SESSION, CHAPTER 1, SECTION 4; AMENDING SECTION 8-546.06, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1994, NINTH SPECIAL SESSION, CHAPTER 1, SECTION 5; AMENDING SECTION 41-1092.02, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO CHILD WELFARE AND PLACEMENT.

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

2 Section 1. Section 8-223, Arizona Revised Statutes, as amended by Laws  
3 1994, ninth special session, chapter 1, section 2, is amended to read:

4 8-223. Taking into temporary custody; interference; release;  
5 separate custody; violation; classification

6 A. Except as provided in section 8-226, a child taken into temporary  
7 custody shall not be detained in a police station, jail or lockup where  
8 adults charged with or convicted of a crime are detained.

9 B. A child shall be taken into temporary custody:

10 1. Pursuant to an order of the juvenile court.

11 2. Pursuant to a warrant issued according to the laws of arrest.

12 3. In proceedings to declare a child a temporary ward of the court to  
13 protect the child, pursuant to an order of the juvenile court upon a petition  
14 by a peace officer or a child protective services specialist under oath that

1 reasonable grounds exist to believe that temporary custody is clearly  
2 necessary to protect the child from suffering abuse.

3 C. A child may be taken into temporary custody:

4 1. By a peace officer pursuant to the laws of arrest, without a  
5 warrant, if there are reasonable grounds to believe that he has committed a  
6 delinquent act or is incorrigible.

7 2. By a peace officer or a child protective services specialist of the  
8 department of economic security if temporary custody is clearly necessary to  
9 protect the child because the child is either:

10 (a) Suffering or will imminently suffer abuse OR NEGLECT.

11 (b) Suffering serious physical or emotional damage which can only be  
12 diagnosed by a medical doctor or psychologist. The person taking a child  
13 into custody pursuant to this subdivision shall immediately have the child  
14 examined by a medical doctor or psychologist and after the examination the  
15 person shall release the child to the custody of the parent, guardian or  
16 custodian of the child unless the examination reveals abuse. Temporary  
17 custody of a child taken into custody pursuant to this subdivision shall not  
18 exceed twelve hours.

19 3. By a peace officer if there are reasonable grounds to believe that  
20 the child has run away from his parents, guardian or other custodian.

21 4. By a private person as provided by section 13-3884.

22 D. If a child is taken into temporary custody as provided in  
23 subsection B, paragraph 3 or subsection C, paragraph 2 of this section, the  
24 law enforcement officer or child protective services specialist of the  
25 department of economic security taking the child into custody shall provide  
26 written notice within six hours to the parent, guardian or custodian of the  
27 child, unless:

28 1. The parent, guardian or custodian is present when the child is  
29 taken into custody, then written notice shall be provided immediately.

30 2. The residence of the parent, guardian or custodian is out-of-state  
31 and notice cannot be provided within six hours, then written notice shall be  
32 provided within twenty-four hours.

33 3. The residence of the parent, guardian or custodian is not  
34 ascertainable, then reasonable efforts shall be made to locate and notify as  
35 soon as possible the parent, guardian or custodian of the child.

36 E. The written notice shall contain the name of the person and agency  
37 taking the child into custody and the location from which the child was taken  
38 and all the following information:

39 1. The date and time of the taking into custody.

40 2. The name and ~~phone~~ TELEPHONE number of the agency responsible for  
41 the child.

42 3. A statement of the reasons for temporary custody of the child.

43 4. A statement that the child must be returned within forty-eight  
44 hours excluding Saturdays, Sundays and holidays unless a dependency petition

1 is filed and a statement that a child in temporary custody for examination  
2 pursuant to subsection C, paragraph 2, subdivision (b) of this section must  
3 be returned within twelve hours unless abuse is diagnosed.

4 5. A statement that if a dependency petition is filed and the child  
5 is declared a temporary ward of the court:

6 (a) The parent, guardian or custodian of the child may file a written  
7 request with the juvenile court for a hearing to review the temporary custody  
8 pursuant to section 8-546.06.

9 (b) The initial hearing on the dependency petition shall be set not  
10 later than twenty-one days from the filing of the petition, at which time the  
11 parent, guardian or custodian will be requested to personally appear before  
12 the court and answer the allegation of the petition.

13 (c) The parent, guardian or custodian of the child may request  
14 appointment of counsel pursuant to section 8-225 through the juvenile court.

15 F. IF A CHILD IS TAKEN INTO TEMPORARY CUSTODY PURSUANT TO SUBSECTION  
16 B, PARAGRAPH 3 OR SUBSECTION C, PARAGRAPH 2 OF THIS SECTION, THE WRITTEN  
17 NOTICE PRESCRIBED IN SUBSECTION E OF THIS SECTION SHALL ALSO INCLUDE  
18 INFORMATION REGARDING THE ABILITY OF THE PERSON ABOUT WHOM THE REPORT WAS  
19 MADE TO PROVIDE A VERBAL OR WRITTEN RESPONSE TO THE ALLEGATIONS. A VERBAL  
20 RESPONSE SHALL BE INCLUDED IN THE WRITTEN REPORT OF THE INVESTIGATION. A  
21 WRITTEN RESPONSE, INCLUDING ANY DOCUMENTATION, SHALL BE INCLUDED IN THE CASE  
22 FILE. THE NOTICE SHALL ALSO INCLUDE A STATEMENT THAT ANYTHING THE PERSON  
23 SAYS OR WRITES CAN BE USED IN COURT PROCEEDINGS.

24 ~~F~~ G. Any peace officer or juvenile probation officer having a child  
25 in temporary custody for reasons other than the commission of a delinquent  
26 act may place the child in shelter care or a minimally secured facility.

27 ~~G~~ H. A peace officer shall take a child into temporary custody  
28 pursuant to the laws of arrest, with or without a warrant, when there are  
29 reasonable grounds to believe that both:

30 1. The child has committed a delinquent act which if committed by an  
31 adult could be a felony or breach of the peace.

32 2. The child has been apprehended in commission of the act or in fresh  
33 pursuit.

34 Such child may be released from temporary custody only to the parents,  
35 guardian or custodian of such child or to the juvenile court.

36 ~~H~~ I. A person who knowingly interferes with the taking of a child  
37 into temporary custody under the provisions of this section is guilty of a  
38 class 2 misdemeanor.

39 ~~I~~ J. A private person who files a dependency petition and obtains  
40 temporary custody of a child shall provide written notice as set forth in  
41 subsection D of this section containing the information required in  
42 subsection E, paragraph 5 of this section.

43 ~~J~~ K. In determining if a child should be taken into custody under  
44 subsection C of this section, the peace officer or child protective services

1 specialist may take into consideration as a mitigating factor the  
2 participation of the parent, guardian or custodian in the healthy families  
3 pilot program established in section 8-701.

4 Sec. 2. Section 8-223, Arizona Revised Statutes, as amended by Laws  
5 1994, ninth special session, chapter 1, section 3, is amended to read:

6 8-223. Taking into temporary custody; interference; release;  
7 separate custody; violation; classification

8 A. Except as provided in section 8-226, a child taken into temporary  
9 custody shall not be detained in a police station, jail or lockup where  
10 adults charged with or convicted of a crime are detained.

11 B. A child shall be taken into temporary custody:

12 1. Pursuant to an order of the juvenile court.

13 2. Pursuant to a warrant issued according to the laws of arrest.

14 3. In proceedings to declare a child a temporary ward of the court to  
15 protect the child, pursuant to an order of the juvenile court upon a petition  
16 by a peace officer or a child protective services specialist under oath that  
17 reasonable grounds exist to believe that temporary custody is clearly  
18 necessary to protect the child from suffering abuse.

19 C. A child may be taken into temporary custody:

20 1. By a peace officer pursuant to the laws of arrest, without a  
21 warrant, if there are reasonable grounds to believe that he has committed a  
22 delinquent act or is incorrigible.

23 2. By a peace officer or a child protective services specialist of the  
24 department of economic security if temporary custody is clearly necessary to  
25 protect the child because the child is either:

26 (a) Suffering or will imminently suffer abuse OR NEGLECT.

27 (b) Suffering serious physical or emotional damage which can only be  
28 diagnosed by a medical doctor or psychologist. The person taking a child  
29 into custody pursuant to this subdivision shall immediately have the child  
30 examined by a medical doctor or psychologist and after the examination the  
31 person shall release the child to the custody of the parent, guardian or  
32 custodian of the child unless the examination reveals abuse. Temporary  
33 custody of a child taken into custody pursuant to this subdivision shall not  
34 exceed twelve hours.

35 3. By a peace officer if there are reasonable grounds to believe that  
36 the child has run away from his parents, guardian or other custodian.

37 4. By a private person as provided by section 13-3884.

38 D. If a child is taken into temporary custody as provided in  
39 subsection B, paragraph 3 or subsection C, paragraph 2 of this section, the  
40 law enforcement officer or child protective services specialist of the  
41 department of economic security taking the child into custody shall provide  
42 written notice within six hours to the parent, guardian or custodian of the  
43 child, unless:

1           1. The parent, guardian or custodian is present when the child is  
2 taken into custody, then written notice shall be provided immediately.

3           2. The residence of the parent, guardian or custodian is out-of-state  
4 and notice cannot be provided within six hours, then written notice shall be  
5 provided within twenty-four hours.

6           3. The residence of the parent, guardian or custodian is not  
7 ascertainable, then reasonable efforts shall be made to locate and notify as  
8 soon as possible the parent, guardian or custodian of the child.

9           E. The written notice shall contain the name of the person and agency  
10 taking the child into custody and the location from which the child was taken  
11 and all the following information:

12           1. The date and time of the taking into custody.

13           2. The name and ~~phone~~ TELEPHONE number of the agency responsible for  
14 the child.

15           3. A statement of the reasons for temporary custody of the child.

16           4. A statement that the child must be returned within forty-eight  
17 hours excluding Saturdays, Sundays and holidays unless a dependency petition  
18 is filed and a statement that a child in temporary custody for examination  
19 pursuant to subsection C, paragraph 2, subdivision (b) of this section must  
20 be returned within twelve hours unless abuse is diagnosed.

21           5. A statement that if a dependency petition is filed and the child  
22 is declared a temporary ward of the court:

23           (a) The parent, guardian or custodian of the child may file a written  
24 request with the juvenile court for a hearing to review the temporary custody  
25 pursuant to section 8-546.06.

26           (b) The initial hearing on the dependency petition shall be set not  
27 later than twenty-one days from the filing of the petition, at which time the  
28 parent, guardian or custodian will be requested to personally appear before  
29 the court and answer the allegation of the petition.

30           (c) The parent, guardian or custodian of the child may request  
31 appointment of counsel pursuant to section 8-225 through the juvenile court.

32           F. IF A CHILD IS TAKEN INTO TEMPORARY CUSTODY PURSUANT TO SUBSECTION  
33 B, PARAGRAPH 3 OR SUBSECTION C, PARAGRAPH 2 OF THIS SECTION, THE WRITTEN  
34 NOTICE PRESCRIBED IN SUBSECTION E OF THIS SECTION SHALL ALSO INCLUDE  
35 INFORMATION REGARDING THE ABILITY OF THE PERSON ABOUT WHOM THE REPORT WAS  
36 MADE TO PROVIDE A VERBAL OR WRITTEN RESPONSE TO THE ALLEGATIONS. A VERBAL  
37 RESPONSE SHALL BE INCLUDED IN THE WRITTEN REPORT OF THE INVESTIGATION. A  
38 WRITTEN RESPONSE, INCLUDING ANY DOCUMENTATION, SHALL BE INCLUDED IN THE CASE  
39 FILE. THE NOTICE SHALL ALSO INCLUDE A STATEMENT THAT ANYTHING THE PERSON  
40 SAYS OR WRITES CAN BE USED IN COURT PROCEEDINGS.

41           ~~F.~~ G. Any peace officer or juvenile probation officer having a child  
42 in temporary custody for reasons other than the commission of a delinquent  
43 act may place the child in shelter care or a minimally secured facility.

1           ~~G~~ H. A peace officer shall take a child into temporary custody  
2 pursuant to the laws of arrest, with or without a warrant, when there are  
3 reasonable grounds to believe that both:

4           1. The child has committed a delinquent act which if committed by an  
5 adult could be a felony or breach of the peace.

6           2. The child has been apprehended in commission of the act or in fresh  
7 pursuit.

8 Such child may be released from temporary custody only to the parents,  
9 guardian or custodian of such child or to the juvenile court.

10          ~~H~~ I. A person who knowingly interferes with the taking of a child  
11 into temporary custody under the provisions of this section is guilty of a  
12 class 2 misdemeanor.

13          ~~I~~ J. A private person who files a dependency petition and obtains  
14 temporary custody of a child shall provide written notice as set forth in  
15 subsection D of this section containing the information required in  
16 subsection E, paragraph 5 of this section.

17          Sec. 3. Section 8-506, Arizona Revised Statutes, is amended to read:

18          8-506. Denial, suspension or revocation of license; foster  
19                 home; hearing

20          ~~A~~ The division may deny the application or suspend or revoke the  
21 license of any ~~child welfare agency or the license of any~~ foster home for  
22 wilful violation of any provision of this chapter or failure to maintain the  
23 standards of the care prescribed by the division. Written notice of the  
24 grounds of the suspension or the proposed denial or revocation shall be given  
25 the applicant or holder of the license. ~~If the applicant is a foster home,~~  
26 A copy of the written notice of the suspension or the proposed denial, or  
27 revocation shall be forwarded to the agency that recommended the foster home  
28 for licensing. Within twenty days after receipt of written notice of  
29 proposed denial, revocation, or suspension, the applicant or holder may  
30 request a hearing in accordance with the ~~regulations~~ RULES of the division.  
31 If the hearing is requested it shall be held within ten days of the request,  
32 at which time the applicant or holder shall have the right to present  
33 testimony and confront witnesses.

34          Sec 4. Title 8, chapter 5, article 1, Arizona Revised Statutes, is  
35 amended by adding section 8-506.01, to read:

36          8-506.01. Denial, suspension, revocation or change of license;  
37                 child welfare agency; appeal

38          THE DIVISION MAY DENY THE APPLICATION OR SUSPEND OR REVOKE THE LICENSE  
39 OF ANY CHILD WELFARE AGENCY FOR THE WILFUL VIOLATION OF ANY PROVISION OF THIS  
40 CHAPTER OR FOR FAILURE TO MAINTAIN THE STANDARDS OF THE CARE PRESCRIBED BY  
41 THE DIVISION. WRITTEN NOTICE OF THE GROUNDS OF THE SUSPENSION OR THE  
42 PROPOSED DENIAL OR REVOCATION OR ANY OTHER MATERIAL CHANGE IN THE LICENSE  
43 STATUS, INCLUDING PROVISIONAL STATUS, SHALL BE GIVEN THE APPLICANT OR HOLDER  
44 OF THE LICENSE. WITHIN TWENTY DAYS AFTER RECEIPT OF WRITTEN NOTICE OF A

1 PROPOSED DENIAL, REVOCATION, SUSPENSION OR CHANGE, THE APPLICANT OR HOLDER  
2 MAY REQUEST A HEARING IN ACCORDANCE WITH TITLE 41, CHAPTER 6, ARTICLE 10. IF  
3 THE HEARING IS REQUESTED IT SHALL BE HELD WITHIN TEN DAYS OF THE REQUEST, AT  
4 WHICH TIME THE APPLICANT OR HOLDER HAS THE RIGHT TO SUBPOENA WITNESSES,  
5 PRESENT TESTIMONY AND CONFRONT WITNESSES.

6 Sec. 5. Section 8-546.01, Arizona Revised Statutes, is amended to  
7 read:

8 8-546.01 Protective services worker; powers and duties;  
9 alteration of files; violation; classification

10 A. Protective services workers shall be employed by the state  
11 department of economic security.

12 B. The department may cooperate with county agencies and community  
13 social services agencies to achieve the purposes of this section.

14 C. A protective services worker shall:

15 1. Be prepared to receive reports of dependent, abused or abandoned  
16 children and be prepared to provide temporary foster care for such children  
17 on a twenty-four hour basis.

18 2. Receive from any source oral or written information regarding a  
19 child who may be in need of protective services. A worker shall not  
20 interview a child without the prior written consent of the parent, guardian  
21 or custodian of the child unless either:

22 (a) The child initiates contact with the worker.

23 (b) The child interviewed is the subject of or is the sibling of or  
24 living with the child who is the subject of an abuse or abandonment  
25 investigation pursuant to paragraph 3, subdivision (b) of this subsection.

26 3. After receipt and initial screening pursuant to rules adopted by  
27 the department under title 41, chapter 6 of any report or information  
28 pursuant to paragraph 1 or 2 of this subsection immediately do both of the  
29 following:

30 (a) Notify the municipal or county law enforcement agency.

31 (b) Make a prompt and thorough investigation of the nature, extent and  
32 cause of any condition which would tend to support or refute the allegation  
33 that the child should be adjudicated dependent and the name, age and  
34 condition of other children in the home.

35 4. Take a child into temporary custody as provided in section 8-223.  
36 Law enforcement officers shall cooperate with the department to remove a  
37 child from the custody of his parents, guardian or custodian when necessary.

38 5. After investigation, evaluate conditions created by the parents,  
39 guardian or custodian which would support or refute the allegation that the  
40 child should be adjudicated dependent. He shall then determine whether any  
41 child is in need of protective services.

42 6. Offer to the family of any child found to be a child in need of  
43 protective services those services designed to correct unresolved problems  
44 which would indicate reason to adjudicate the child dependent.

1           7. Render a written report of his investigation to:

2           (a) The central registry and to any participating member of the  
3 central registry if that is where the complaint originated within twenty-one  
4 days after receipt of the initial information. IF THE INVESTIGATION INVOLVES  
5 ALLEGATIONS REGARDING A CHILD WHO AT THE TIME OF THE ALLEGED INCIDENT WAS IN  
6 THE CUSTODY OF A CHILD WELFARE AGENCY LICENSED BY THE DEPARTMENT OF ECONOMIC  
7 SECURITY UNDER THIS TITLE, A COPY OF THE REPORT AND ANY ADDITIONAL  
8 INVESTIGATIVE OR OTHER RELATED REPORTS SHALL BE PROVIDED TO THE  
9 ADMINISTRATIVE HEAD OF THE FACILITY UNLESS THE INCIDENT IS ALLEGED TO HAVE  
10 BEEN COMMITTED BY THE PERSON OR TO THE BOARD OF DIRECTORS OF THE AGENCY. THE  
11 DEPARTMENT SHALL EXCISE ALL INFORMATION WITH REGARD TO THE IDENTITY OF THE  
12 SOURCE OF THE REPORTS.

13           (b) The appropriate court forty-eight hours prior to a dependency  
14 hearing pursuant to a petition of dependency or within twenty-one days after  
15 a petition of dependency is filed, whichever is earlier. On receipt of the  
16 report the court shall make the report available to all parties and counsel.

17           8. Accept a child into voluntary placement pursuant to section  
18 8-546.05.

19           D. No child shall remain in temporary custody for a period exceeding  
20 forty-eight hours, excluding Saturdays, Sundays and holidays, unless a  
21 dependency petition is filed. If no petition is filed and the child is  
22 released to the child's parent, guardian or custodian the worker shall file  
23 a report of removal with the central registry within seventy-two hours of the  
24 child's release. The report shall include:

25           1. The dates of previous referrals, investigations or temporary  
26 custody.

27           2. The dates on which other children in the family have been taken  
28 into temporary custody.

29           E. Any person who alters a client file for the purpose of fraud or  
30 misrepresentation is guilty of a class 2 misdemeanor.

31           Sec. 6. Section 8-546.02, Arizona Revised Statutes, is amended to  
32 read:

33           8-546.02. Limitation of authority; duty to inform

34           A. Upon initial contact with a parent, guardian or custodian under  
35 investigation pursuant to this article, a PROTECTIVE SERVICES worker shall  
36 ~~notify~~ INFORM THE FAMILY THAT the family ~~that it~~ is under investigation by  
37 the department and shall make clear that ~~he~~ THE PROTECTIVE SERVICES WORKER  
38 has no legal authority to compel the family to cooperate with the  
39 investigation or to receive protective services offered pursuant to the  
40 investigation. The worker shall inform the family of his authority to  
41 petition the juvenile court for a determination that a child is dependent.

42           B. THE PROTECTIVE SERVICES WORKER SHALL ALSO INFORM THE PERSON ABOUT  
43 WHOM THE REPORT WAS MADE ABOUT THAT PERSON'S RIGHT TO RESPOND TO THE  
44 ALLEGATIONS EITHER VERBALLY OR IN WRITING, INCLUDING ANY DOCUMENTATION, AND

1 HAVE THIS INFORMATION CONSIDERED IN DETERMINING IF THE CHILD IS IN NEED OF  
2 PROTECTIVE SERVICES. THE PROTECTIVE SERVICES WORKER SHALL TELL THE PERSON  
3 THAT ANYTHING THE PERSON SAYS OR WRITES CAN BE USED IN A COURT PROCEEDING.  
4 IF THE PERSON MAKES A VERBAL RESPONSE, THE PROTECTIVE SERVICES WORKER SHALL  
5 INCLUDE THE RESPONSE IN THE WRITTEN REPORT OF THE INVESTIGATION. IF THE  
6 PERSON MAKES A WRITTEN RESPONSE, INCLUDING ANY DOCUMENTATION, THE PROTECTIVE  
7 SERVICES WORKER SHALL INCLUDE THIS RESPONSE AND THE DOCUMENTATION IN THE CASE  
8 FILE. INFORMATION PROVIDED IN RESPONSE TO THE ALLEGATIONS SHALL BE  
9 CONSIDERED DURING THE INVESTIGATION BY THE PROTECTIVE SERVICES WORKER. THE  
10 PROTECTIVE SERVICES WORKER SHALL MAINTAIN THE RESPONSE AND DOCUMENTATION IN  
11 THE CASE FILE AND PROVIDE THIS INFORMATION TO THE COURT BEFORE A HEARING OR  
12 TRIAL RELATING TO THE DEPENDENCY PETITION.

13 ~~B-~~ C. If the family declines to cooperate with the investigation or  
14 to accept or to participate in the offered services, or if the worker  
15 otherwise believes that the child should be adjudicated dependent, the worker  
16 may file with the juvenile court a petition requesting that the child in need  
17 of protective services be adjudicated dependent.

18 ~~C-~~ D. Refusal to cooperate in the investigation or to participate in  
19 the offered services does not constitute grounds for temporary custody of a  
20 child except if there is a clear necessity for temporary custody as provided  
21 in section 8-223.

22 Sec. 7. Section 8-546.06, Arizona Revised Statutes, as amended by Laws  
23 1994, ninth special session, chapter 1, section 4, is amended to read:

24 8-546.06. Review of temporary custody; probable cause;  
25 appointment of counsel

26 A. Upon written request by the parent, guardian or custodian, the  
27 court shall hold a hearing to review the taking into temporary custody of a  
28 child pursuant to section 8-223. The request must be made within seventy-two  
29 hours excluding Saturdays, Sundays and holidays after notification has been  
30 received by the parent, guardian or custodian pursuant to section 8-223. The  
31 court shall notify the parties of the date, time and place of the hearing.

32 B. The court shall hold the hearing within five days of the receipt  
33 of the written request and shall determine whether temporary custody of the  
34 child is clearly necessary to prevent abuse or ~~to provide the necessities of~~  
35 ~~life, such as adequate food, clothing, shelter, medical care or education~~  
36 NEGLECT pending the hearing on the dependency petition. The court:

37 1. Upon finding that ~~temporary custody is not clearly necessary~~ THERE  
38 IS NOT SUBSTANTIAL EVIDENCE THAT MEETS THE REQUIREMENTS OF SECTION 8-223,  
39 SUBSECTION C, PARAGRAPH 2, shall return the child to the child's parent,  
40 guardian or custodian pending the dependency hearing.

41 2. Upon finding that ~~temporary custody is clearly necessary and~~  
42 ~~conditions in the home necessitate continued custody of the child~~ THERE IS  
43 SUBSTANTIAL EVIDENCE THAT SATISFIES THE REQUIREMENTS OF SECTION 8-223,

1 SUBSECTION C, PARAGRAPH 2, may declare the child a temporary ward of the  
2 court pending the dependency hearing.

3 C. At the hearing the court shall notify the parties of the date, time  
4 and place of the hearing on the dependency petition and shall appoint counsel  
5 for the parties as provided in section 8-225 for the hearing on the  
6 dependency petition.

7 D. At the hearing the court may take into consideration as a  
8 mitigating factor the participation of the parent, guardian or custodian in  
9 the healthy families pilot program established in section 8-701.

10 Sec. 8. Section 8-546.06, Arizona Revised Statutes, as amended by Laws  
11 1994, ninth special session, chapter 1, section 5, is amended to read:

12 8-546.06. Review of temporary custody; probable cause;  
13 appointment of counsel

14 A. Upon written request by the parent, guardian or custodian, the  
15 court shall hold a hearing to review the taking into temporary custody of a  
16 child pursuant to section 8-223. The request must be made within seventy-two  
17 hours excluding Saturdays, Sundays and holidays after notification has been  
18 received by the parent, guardian or custodian pursuant to section 8-223. The  
19 court shall notify the parties of the date, time and place of the hearing.

20 B. The court shall hold the hearing within five days of the receipt  
21 of the written request and shall determine whether temporary custody of the  
22 child is clearly necessary to prevent abuse or neglect pending the hearing  
23 on the dependency petition. The court:

24 1. Upon finding that ~~temporary custody is not clearly necessary~~ THERE  
25 IS NOT SUBSTANTIAL EVIDENCE THAT MEETS THE REQUIREMENTS OF SECTION 8-223,  
26 SUBSECTION C, PARAGRAPH 2, shall return the child to the child's parent,  
27 guardian or custodian pending the dependency hearing.

28 2. Upon finding that ~~temporary custody is clearly necessary and~~  
29 ~~conditions in the home necessitate continued custody of the child~~ THERE IS  
30 SUBSTANTIAL EVIDENCE THAT SATISFIES THE REQUIREMENTS OF SECTION 8-223,  
31 SUBSECTION C, PARAGRAPH 2, may declare the child a temporary ward of the  
32 court pending the dependency hearing.

33 C. At the hearing the court shall notify the parties of the date, time  
34 and place of the hearing on the dependency petition and shall appoint counsel  
35 for the parties as provided in section 8-225 for the hearing on the  
36 dependency petition.

37 Sec. 9. Section 41-1092.02, Arizona Revised Statutes, is amended to  
38 read:

39 41-1092.02. Contested cases; application of procedural rules;  
40 exemption from article

41 A. This article applies to all contested cases as defined in section  
42 41-1001, except contested cases with:

- 43 1. The state department of corrections.  
44 2. The board of executive clemency.

- 1           3. The industrial commission of Arizona.
- 2           4. The Arizona corporation commission.
- 3           5. The Arizona board of regents and institutions under its
- 4 jurisdiction.
- 5           6. The state personnel board.
- 6           7. The department of ~~youth treatment and rehabilitation~~ JUVENILE
- 7 CORRECTIONS.
- 8           8. The department of transportation.
- 9           9. The Arizona health care cost containment system.
- 10          10. The department of economic security EXCEPT AS PROVIDED IN SECTION
- 11 8-506.01.
- 12          11. The department of revenue regarding income tax, withholding tax or
- 13 estate tax or any tax issue related to information associated with the
- 14 reporting of income tax, withholding tax or estate tax.
- 15          12. The board of tax appeals.
- 16          13. The state board of equalization.

17           B. Unless waived by all parties, an administrative law judge assigned  
18 by the office shall conduct all hearings under this article, and the  
19 procedural rules set forth in article 6 of this chapter and rules adopted by  
20 the director apply.

21           C. Except as provided in subsection A of this section, a contested  
22 case heard by the office of administrative hearings regarding taxes  
23 administered under title 42 shall be subject to the provisions under section  
24 42-122.

25           D. Except as provided in subsection A of this section, a final  
26 decision of the office of administrative hearings regarding taxes  
27 administered under title 42 may be appealed by either party to the director  
28 of the department of revenue, or a taxpayer may file and appeal directly to  
29 the board of tax appeals pursuant to section 42-124.

30           Sec. 10. Appropriation; office of administrative hearings

31           The sum of \$60,000 is appropriated from the state general fund in  
32 fiscal year 1996-1997 to the office of administrative hearings established  
33 by section 41-1092.01, Arizona Revised Statutes for additional hearings held  
34 by the office pursuant to the purposes of this act.

35           Sec. 11. Delayed effective date

36           Sections 2 and 8 of this act are effective from and after June 30,  
37 1998.

38           Sec. 12. Retroactivity

39           Section 4 of this act applies retroactively to June 30, 1996.

APPROVED BY THE GOVERNOR MAY 1, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 1996