

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 12

HOUSE BILL 2002

AN ACT

AMENDING SECTIONS 8-821 AND 8-823, ARIZONA REVISED STATUTES; RELATING TO
DEPENDENT CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-821, Arizona Revised Statutes, is amended to
3 read:

4 8-821. Taking into temporary custody; medical examination;
5 placement; interference; classification

6 A. A child shall be taken into temporary custody in proceedings to
7 declare a child a temporary ward of the court to protect the child, pursuant
8 to an order of the juvenile court on a petition by an interested person, a
9 peace officer or a child protective services worker under oath that
10 reasonable grounds exist to believe that temporary custody is clearly
11 necessary to protect the child from suffering abuse or neglect.

12 B. A child may be taken into temporary custody by a peace officer or
13 a child protective services worker if temporary custody is clearly necessary
14 to protect the child because the child is either:

15 1. Suffering or will imminently suffer abuse or neglect.

16 2. Suffering serious physical or emotional damage that can only be
17 diagnosed by a medical doctor or psychologist.

18 C. In determining if a child should be taken into temporary custody,
19 the interested person, peace officer or child protective services worker may
20 take into consideration as a mitigating factor the participation of the
21 parent or guardian in the healthy families program established by section
22 8-701.

23 D. In determining if a child should be taken into temporary custody,
24 the interested person, peace officer or child protective services worker
25 shall take into consideration as a paramount concern the child's health and
26 safety and shall consider as a mitigating factor the availability of
27 reasonable services to the parent or guardian to prevent or eliminate the
28 need for removal of the child and the effort of the parent or guardian to
29 obtain and participate in these services.

30 E. A person who takes a child into custody pursuant to subsection B,
31 paragraph 2 of this section shall immediately have the child examined by a
32 medical doctor or psychologist. After the examination the person shall
33 release the child to the custody of the parent or guardian of the child
34 unless the examination reveals abuse or neglect. Temporary custody of a
35 child taken into custody pursuant to subsection B, paragraph 2 of this
36 section shall not exceed twelve hours.

37 F. A child taken into temporary custody pursuant to this article shall
38 not be detained in a police station, jail or lockup where adults charged with
39 or convicted of a crime are detained.

40 G. A child shall not remain in temporary custody for more than
41 ~~forty-eight~~ SEVENTY-TWO hours excluding Saturdays, Sundays and holidays
42 unless a dependency petition is filed.

43 H. A person who knowingly interferes with the taking of a child into
44 temporary custody under this section is guilty of a class 2 misdemeanor.

1 Sec. 2. Section 8-823, Arizona Revised Statutes, is amended to read:
2 8-823. Notice of taking into temporary custody

3 A. If a child is taken into temporary custody pursuant to this
4 article, the interested person, peace officer or child protective services
5 worker taking the child into custody shall provide written notice within six
6 hours to the parent or guardian of the child, unless:

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

9 2. The residence of the parent or guardian is outside this state and
10 notice cannot be provided within six hours, then written notice shall be
11 provided within twenty-four hours.

12 3. The residence of the parent or guardian is not ascertainable, then
13 reasonable efforts shall be made to locate and notify the parent or guardian
14 of the child as soon as possible.

15 B. The written notice shall contain a signature line for the parent
16 or guardian to acknowledge receipt of the notice and the name of the person
17 and agency taking the child into custody, the location from which the child
18 was taken and all of the following information:

19 1. Specific reasons as to why the child is being removed. The notice
20 shall list the specific factors that caused the determination of imminent
21 danger.

22 2. Services that are available to the parent or guardian, including
23 a statement of parental rights and information on how to contact the
24 ombudsman-citizen's aide office and an explanation of the services that
25 office offers.

26 3. The date and time of the taking into custody.

27 4. The name and telephone number of the agency responsible for the
28 child.

29 5. A statement of the reasons for temporary custody of the child.

30 6. A statement that the child must be returned within ~~forty-eight~~
31 SEVENTY-TWO hours excluding Saturdays, Sundays and holidays unless a
32 dependency petition is filed and a statement that a child in temporary
33 custody for examination pursuant to section 8-821, subsection B, paragraph
34 2 must be returned within twelve hours unless abuse or neglect is diagnosed.

35 7. One of the following:

36 (a) If a dependency petition has not been filed or if the information
37 prescribed in subdivision (b) is not available, a statement that if a
38 dependency petition is filed, the parent or guardian will be provided a
39 written notice no later than twenty-four hours after the petition is filed
40 that contains the information prescribed in subdivision (b).

41 (b) In all other cases, the date, time and place of the preliminary
42 protective hearing to be held pursuant to section 8-824 and the requirements
43 of subsection D of this section.

1 8. A statement of the right of the parent or guardian to counsel and
2 that counsel will be appointed pursuant to section 8-221 through the juvenile
3 court if a dependency petition is filed and the person is indigent.

4 9. Information regarding the ability of the person about whom the
5 report was made to provide a verbal or written response to the allegations.
6 A verbal response shall be included in the written report of the
7 investigation. A written response, including any documentation, shall be
8 included in the case file.

9 10. A statement that the hearing may result in further proceedings to
10 terminate parental rights.

11 C. The protective services worker shall provide the parent or guardian
12 with the notice even if the parent or guardian refuses to sign the
13 acknowledgment.

14 D. Immediately before the time of the preliminary protective hearing,
15 the persons described in section 8-824, subsection B shall meet and attempt
16 to reach an agreement about placement of the child, services to be provided
17 to the child, parent or guardian and visitation of the child. The parties
18 shall meet with their counsel, if any, before this meeting. Consideration
19 shall be given to the availability of reasonable services to the parent or
20 guardian and the child's health and safety shall be a paramount concern. The
21 persons described in section 8-824, subsection C may attend the meeting to
22 reach an agreement.

23 E. If a dependency petition is filed by the department, the child
24 protective services worker is responsible for delivering the notice of the
25 preliminary protective hearing prescribed in subsection B, paragraph 7 of
26 this section to the parent or guardian. In all other cases, the person who
27 files the dependency petition is responsible for delivery of this notice to
28 the parent or guardian. If the location of the parent or guardian is
29 unknown, the person who is responsible for serving this notice shall make
30 reasonable efforts to locate and notify the parent or guardian.

~~APPROVED BY THE GOVERNOR MARCH 15, 2001.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 19, 2001.~~

Passed the House January 18, 2001,

Passed the Senate March 14, 2001,

by the following vote: 56 Ayes,

by the following vote: 30 Ayes,

0 Nays, 4 Not Voting

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
15 day of March, 2001,

at 2:24 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 19 day of

March, 2001,

at 3:42 o'clock P M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 19th day of March, 2001,

at 4:32 o'clock PM M.

[Signature]
Secretary of State

H.B. 2002