

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
First Regular Session  
2003

CHAPTER 124

# HOUSE BILL 2133

AN ACT

AMENDING SECTIONS 8-802, 8-804.01 AND 8-811, ARIZONA REVISED STATUTES;  
PROVIDING FOR THE DELAYED REPEAL OF SECTION 8-810, ARIZONA REVISED STATUTES;  
RELATING TO CHILD PROTECTIVE SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)



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

2 Section 1. Section 8-802, Arizona Revised Statutes, is amended to  
3 read:

4 8-802. Protective services worker; powers and duties;  
5 alteration of files; violation; classification

6 A. Protective services workers shall be employed by the state  
7 department of economic security.

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

10 C. A protective services worker shall:

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

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

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

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

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

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

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

31 4. Take a child into temporary custody as provided in section 8-821.  
32 Law enforcement officers shall cooperate with the department to remove a  
33 child from the custody of his THE CHILD'S parents, guardian or custodian when  
34 necessary.

35 5. After investigation, evaluate conditions created by the parents,  
36 guardian or custodian which would support or refute the allegation that the  
37 child should be adjudicated dependent. He THE PROTECTIVE SERVICES WORKER  
38 shall then determine whether any child is in need of protective services.

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

42 7. Render SUBMIT a written report of his THE WORKER'S investigation  
43 to:

1           (a) ~~The central registry and to any participating member of the~~  
2 ~~central registry if that is where the complaint originated~~ DEPARTMENT'S CASE  
3 MANAGEMENT INFORMATION SYSTEM within twenty-one days after receipt of the  
4 initial information except as provided in section 8-811. If the  
5 investigation involves allegations regarding a child who at the time of the  
6 alleged incident was in the custody of a child welfare agency licensed by the  
7 department of economic security under this title, a copy of the report and  
8 any additional investigative or other related reports shall be provided to  
9 the board of directors of the agency or to the administrative head of the  
10 agency unless the incident is alleged to have been committed by the  
11 person. The department shall excise all information with regard to the  
12 identity of the 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 8-806.

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

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

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

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

30           Sec. 2. Section 8-804.01, Arizona Revised Statutes, is amended to  
31 read:

32           8-804.01. Maintenance of reports; records; definition

33           A. All reports of child abuse and neglect and related records shall  
34 be maintained in the department's case management information system in  
35 accordance with the time frames established in the department's records  
36 retention schedule.

37           B. In addition to the purposes prescribed in section 8-807, reports  
38 and related records maintained pursuant to subsection A of this section shall  
39 be used by the department only for the following purposes:

40           1. To assess the safety and risk to a child when conducting an  
41 investigation or identification of abuse or neglect.

42           2. To determine placement for a child that is the least restrictive  
43 setting.

44           3. To determine the type and level of services and treatment provided  
45 to the child and the child's family.

1           4. To assist in a criminal investigation or prosecution of child abuse  
2 or neglect.

3           5. To meet state and federal reporting requirements.

4           C. Notwithstanding section 8-807 and except as otherwise provided by  
5 law, reports and related records maintained pursuant to subsection A of this  
6 section shall not be used for purposes of employment or background checks,  
7 except for background checks conducted pursuant to section 8-804,  
8 subsection B.

9           D. IF PROBABLE CAUSE EXISTS THAT ABUSE OR NEGLECT OF A CHILD HAS  
10 OCCURRED, THE DEPARTMENT SHALL RECORD THIS FINDING. THE DEPARTMENT MAY MAKE  
11 THIS FINDING INDEPENDENT OF WHETHER A SPECIFIC PERSON IS IDENTIFIED AS  
12 RESPONSIBLE FOR THE ABUSE OR NEGLECT.

13           E. IF THE DEPARTMENT IS UNABLE TO LOCATE A CHILD WHO IS THE SUBJECT  
14 OF A REPORT OF ABUSE OR NEGLECT, THE DEPARTMENT SHALL RECORD ITS FINDINGS  
15 SEPARATE FROM ITS OTHER FINDINGS.

16           F. SUBJECT TO THE REQUIREMENTS OF SECTIONS 8-804 AND 8-811, WHENEVER  
17 POSSIBLE, THE DEPARTMENT SHALL DETERMINE IF A SPECIFIC PERSON IS RESPONSIBLE  
18 FOR THE ABUSE OR NEGLECT OF A CHILD.

19           G. For the purposes of this section, "records" has the same  
20 meaning as prescribed in section 8-807.

21           Sec. 3. Section 8-811, Arizona Revised Statutes, is amended to read:  
22           8-811. Hearing process; definitions

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

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

28           2. To a hearing before the entry into the central registry pursuant  
29 to section 8-802, subsection C, paragraph 7, subdivision (a).

30           B. The department shall send the notice prescribed in subsection A of  
31 this section by first class mail no more than fourteen days after completion  
32 of the investigation.

33           C. A request for a hearing on the proposed finding must be received  
34 by the department within fourteen days after receipt of the notice.

35           D. The department shall not disclose any information related to the  
36 investigation of the allegation except as provided in sections 8-802, 8-807  
37 and 13-3620.

38           E. If a request for a hearing is made pursuant to subsection C of this  
39 section, the department shall conduct a review before the hearing. The  
40 department shall provide an opportunity for the accused person to provide  
41 written or verbal information to support the position that the department  
42 should not substantiate the allegation. If the department determines that  
43 there is no probable cause that the accused person engaged in the alleged  
44 conduct, the department shall amend the information or finding in the report  
45 and shall notify the person and a hearing shall not be held.

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

6 1. The person is a party in a civil, criminal or administrative  
7 proceeding in which the allegations of abuse or neglect are at issue.

8 2. A court or administrative law judge has made findings as to the  
9 alleged abuse or neglect.

10 G. If the department does not amend the information or finding in the  
11 report as prescribed in subsection E of this section, the department shall  
12 notify the office of administrative hearings of the request for a hearing no  
13 later than five days after completion of the review. The department shall  
14 forward all records, reports and other relevant information with the request  
15 for hearing within ten days. The department shall redact the identity of the  
16 reporting source before transmitting the information to the office of  
17 administrative hearings.

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

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

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

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

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

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

31 I. On completion of the presentation of evidence, the administrative  
32 law judge shall determine if probable cause exists to sustain the  
33 department's finding that the accused engaged in the alleged conduct. If the  
34 administrative law judge determines that probable cause does not exist to  
35 sustain the department's finding, the administrative law judge shall order  
36 the department to amend the information or finding in the report.

37 J. When the department is requested to verify pursuant to section  
38 8-807, if the child protective services central registry contains a  
39 substantiated report about a specific person, the department shall determine  
40 if the report was taken after January 1, 1998. If the report was taken after  
41 January 1, 1998, the department shall notify the requestor of the  
42 substantiated finding. If the child protective services report was taken  
43 before January 1, 1998, the department shall notify the person of the  
44 person's right to request an administrative hearing. The department shall  
45 not send this notification if the person was a party in a civil, criminal or

1 administrative proceeding in which the allegations of abuse or neglect were  
2 at issue. The provisions of this section shall apply to the person's appeal.

3 K. The department shall provide the parent, guardian or custodian who  
4 is the subject of the investigation and the person who reported the suspected  
5 child abuse or neglect if that person is the child's parent, guardian or  
6 custodian with a copy of the outcome of the investigation at one of the  
7 following times:

8 1. ~~When~~ IF the report is unsubstantiated.

9 2. IF PROBABLE CAUSE EXISTS THAT ABUSE OR NEGLECT HAS OCCURRED BUT A  
10 SPECIFIC PERSON IS NOT IDENTIFIED AS HAVING ABUSED OR NEGLECTED THE CHILD.

11 ~~2.~~ 3. After the time to request a hearing has lapsed pursuant to  
12 subsection C of this section without the department receiving a request for  
13 a hearing.

14 ~~3.~~ 4. After a final administrative decision has been made pursuant  
15 to section 41-1092.08.

16 L. For THE purposes of this section:

17 1. "Amend the finding" means to change the finding from substantiated  
18 to unsubstantiated.

19 2. "Amend the information" means to change information identifying the  
20 accused of having abused or neglected a child.

21 Sec. 4. Delayed repeal

22 Section 8-810, Arizona Revised Statutes, is repealed from and after  
23 December 31, 2003.

APPROVED BY THE GOVERNOR APRIL 30, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2003.



Passed the House March 3, 2003,

Passed the Senate April 17, 2003,

by the following vote: 59 Ayes,

by the following vote: 25 Ayes,

0 Nays, 1 Not Voting

3 Nays, 2 Not Voting

Jake Flake  
Speaker of the House

Ken Bennett  
President of the Senate

Norman L. Moore  
Chief Clerk of the House

Charmie Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

H.B. 2133

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 24, 2003,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Jake Flake  
Speaker of the House  
Norman L. Stone  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

24 day of April, 2003

at 11:08 o'clock A M.

Sandra Ramirez  
Secretary to the Governor

Approved this 30 day of

April, 2003,

at 4:30 o'clock P. M.

Jt. Nagel  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 1 day of May, 2003,

at 3:16 o'clock P. M.

James K. Brewer  
Secretary of State

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