

Conference Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 253

SENATE BILL 1560

AN ACT

AMENDING SECTIONS 8-527, 8-533, 8-862 AND 36-3435, 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 8-527, Arizona Revised Statutes, is amended to
3 read:

4 8-527. Children in out-of-home care; noninterference with
5 regular school activities

6 The agency, ~~or~~ division AND DEPARTMENT OF HEALTH SERVICES IN ACCORDANCE
7 WITH SECTION 36-3435, SUBSECTION B, shall make every reasonable effort to not
8 remove a child who is placed in out-of-home care from school during regular
9 school hours for appointments, visitations or activities not related to
10 school.

11 Sec. 2. Section 8-533, Arizona Revised Statutes, is amended to read:

12 8-533. Petition; who may file; grounds

13 A. Any person or agency that has a legitimate interest in the welfare
14 of a child, including, but not limited to, a relative, a foster parent, a
15 physician, the department of economic security or a private licensed child
16 welfare agency, may file a petition for the termination of the parent-child
17 relationship alleging grounds contained in subsection B of this section.

18 B. Evidence sufficient to justify the termination of the parent-child
19 relationship shall include any one of the following, and in considering any
20 of the following grounds, the court shall also consider the best interests of
21 the child:

22 1. That the parent has abandoned the child.

23 2. That the parent has neglected or wilfully abused a child. This
24 abuse includes serious physical or emotional injury or situations in which
25 the parent knew or reasonably should have known that a person was abusing or
26 neglecting a child.

27 3. That the parent is unable to discharge parental responsibilities
28 because of mental illness, mental deficiency or a history of chronic abuse of
29 dangerous drugs, controlled substances or alcohol and there are reasonable
30 grounds to believe that the condition will continue for a prolonged
31 indeterminate period.

32 4. That the parent is deprived of civil liberties due to the
33 conviction of a felony if the felony of which that parent was convicted is of
34 such nature as to prove the unfitness of that parent to have future custody
35 and control of the child, including murder of another child of the parent,
36 manslaughter of another child of the parent or aiding or abetting or
37 attempting, conspiring or soliciting to commit murder or manslaughter of
38 another child of the parent, or if the sentence of that parent is of such
39 length that the child will be deprived of a normal home for a period of
40 years.

41 5. That the potential father failed to file a paternity action within
42 thirty days of completion of service of notice as prescribed in section
43 8-106, subsection G.

44 6. That the putative father failed to file a notice of claim of
45 paternity as prescribed in section 8-106.01.

1 7. That the parents have relinquished their rights to a child to an
2 agency or have consented to the adoption.

3 8. That the child is being cared for in an out-of-home placement under
4 the supervision of the juvenile court, the division or a licensed child
5 welfare agency, that the agency responsible for the care of the child has
6 made a diligent effort to provide appropriate reunification services and that
7 one of the following circumstances exists:

8 (a) The child has been in an out-of-home placement for a cumulative
9 total period of nine months or longer pursuant to court order or voluntary
10 placement pursuant to section 8-806 and the parent has substantially
11 neglected or wilfully refused to remedy the circumstances that cause the
12 child to be in an out-of-home placement.

13 (b) The child who is under three years of age has been in an
14 out-of-home placement for a cumulative total period of six months or longer
15 pursuant to court order and the parent has substantially neglected or
16 wilfully refused to remedy the circumstances that cause the child to be in an
17 out-of-home placement, including refusal to participate in reunification
18 services offered by the department.

19 (c) The child has been in an out-of-home placement for a cumulative
20 total period of fifteen months or longer pursuant to court order or voluntary
21 placement pursuant to section 8-806, the parent has been unable to remedy the
22 circumstances that cause the child to be in an out-of-home placement and
23 there is a substantial likelihood that the parent will not be capable of
24 exercising proper and effective parental care and control in the near future.

25 9. That the identity of the parent is unknown and continues to be
26 unknown following three months of diligent efforts to identify and locate the
27 parent.

28 10. That the parent has had parental rights to another child terminated
29 within the preceding two years for the same cause and is currently unable to
30 discharge parental responsibilities due to the same cause.

31 11. That all of the following are true:

32 (a) The child was cared for in an out-of-home placement pursuant to
33 court order.

34 (b) The agency responsible for the care of the child made diligent
35 efforts to provide appropriate reunification services.

36 (c) The child, pursuant to court order, was returned to the legal
37 custody of the parent from whom the child had been removed.

38 (d) Within eighteen months after the child was returned, pursuant to
39 court order, the child was removed from that parent's legal custody, the
40 child is being cared for in an out-of-home placement under the supervision of
41 the juvenile court, the division or a licensed child welfare agency and the
42 parent is currently unable to discharge parental responsibilities.

43 C. Evidence considered by the court pursuant to subsection B of this
44 section shall include any substantiated allegations of abuse or neglect
45 committed in another jurisdiction.

1 D. In considering the grounds for termination prescribed in subsection
2 B, paragraph 8 or 11 of this section, the court shall consider the
3 availability of reunification services to the parent and the participation of
4 the parent in these services.

5 E. In considering the grounds for termination prescribed in subsection
6 B, paragraph 8 of this section, the court shall not consider the first sixty
7 days of the initial out-of-home placement pursuant to section 8-806 in the
8 cumulative total period.

9 F. THE FAILURE OF AN ALLEGED PARENT WHO IS NOT THE CHILD'S LEGAL
10 PARENT TO TAKE A TEST REQUESTED BY THE DEPARTMENT OR ORDERED BY THE COURT TO
11 DETERMINE IF THE PERSON IS THE CHILD'S NATURAL PARENT IS PRIMA FACIE EVIDENCE
12 OF ABANDONMENT UNLESS GOOD CAUSE IS SHOWN BY THE ALLEGED PARENT FOR THAT
13 FAILURE.

14 Sec. 3. Section 8-862, Arizona Revised Statutes, is amended to read:
15 8-862. Permanency hearing

16 A. The court shall hold a permanency hearing to determine the future
17 permanent legal status of the child:

18 1. Within thirty days after the disposition hearing if the court does
19 not order reunification services.

20 2. Within six months after a child who is under three years of age is
21 removed from the child's home. The court shall not continue that permanency
22 hearing beyond six months after the child who is under three years of age is
23 removed from the child's home unless the party who is seeking the continuance
24 shows that the determination prescribed in section 8-829, subsection A,
25 paragraph 6 has been made or will be made within the time prescribed in that
26 paragraph.

27 3. In all other cases, within twelve months after the child is removed
28 from the child's home. The court shall not continue the permanency hearing
29 beyond twelve months after the child is removed from the child's home unless
30 the party who is seeking the continuance shows that the determination
31 prescribed in section 8-829, subsection A, paragraph 5 has been made or will
32 be made within the time prescribed in that paragraph.

33 B. At the permanency hearing, the court shall determine:

34 1. Whether termination of parental rights, adoption, permanent
35 guardianship pursuant to section 8-872 or some other permanent legal status
36 is the most appropriate plan for the child and shall order the plan to be
37 accomplished within a specified period of time.

38 2. Whether reasonable efforts have been made to finalize the
39 permanency plan in effect.

40 3. What efforts have been made in the permanency plan to place the
41 child with the child's siblings or to provide frequent visitation or contact,
42 unless the court had already determined that placement with all or any
43 siblings or visitation or contact is not possible or would be contrary to the
44 child's or a sibling's safety or well-being.

1 C. If the court determines that the child should remain in out-of-home
2 placement longer than eighteen months from the date of the permanency order,
3 the court shall conduct a review of the order at least once each year. After
4 reviewing the order, the court may reaffirm the order or direct other
5 disposition of the child.

6 D. If the court determines that the termination of parental rights is
7 clearly in the best interests of the child, the court shall:

8 1. Order the department or the child's attorney or guardian ad litem
9 to file within ten days after the permanency hearing a motion alleging one or
10 more of the grounds prescribed in section 8-533 for termination of parental
11 rights. The party who files the motion has the burden of presenting evidence
12 at the termination hearing to prove the allegations in the motion.

13 2. Set a date for an initial hearing on the motion for termination of
14 parental rights within thirty days after the permanency hearing. If the
15 termination is contested at the initial hearing, the court shall set a date
16 for the trial on termination of parental rights within ninety days after the
17 permanency hearing.

18 E. The department shall make reasonable efforts to place the child in
19 a timely manner in accordance with the permanency plan and to complete
20 whatever steps are necessary to finalize the permanent placement of the
21 child.

22 F. If the court determines that permanent guardianship is clearly in
23 the best interests of the child, the court shall:

24 1. Order the department or the child's attorney or guardian ad litem
25 to file within ten days after the permanency hearing a motion alleging the
26 grounds prescribed in section 8-871 for permanent guardianship. The party
27 who files the motion has the burden of presenting evidence at the hearing to
28 prove the allegations in the motion.

29 2. Set a date for an initial hearing on the motion for permanent
30 guardianship within thirty days after the permanency hearing. If the
31 permanent guardianship is contested at the initial hearing, the court shall
32 set a date for the trial on the permanent guardianship within ninety days
33 after the permanency hearing.

34 G. Evidence considered by the court in making a decision pursuant to
35 this section also shall include any substantiated allegations of abuse or
36 neglect committed in another jurisdiction.

37 H. If the court determines that termination of parental rights or
38 permanent guardianship is clearly in the best interest of the child and the
39 child has been placed in a prospective permanent placement, UNLESS THE ACTION
40 IS REQUIRED BY FEDERAL LAW, STATE LAW OR REGULATION, ANY ACTION THAT IS
41 INCONSISTENT WITH THE CASE PLAN OF SEVERANCE AND ADOPTION, INCLUDING removal
42 of the child from that placement, may occur only by court order ~~except for~~
43 ~~removal pursuant to section 8-802 or 8-821~~ OR IF THE PROSPECTIVE PERMANENT
44 PLACEMENT REQUESTS THE CHILD'S REMOVAL. IF A MOTION TO CHANGE THE CASE PLAN
45 OR FOR REMOVAL OF A CHILD IS FILED, A COPY OF THE MOTION MUST BE PROVIDED TO
46 THE PROSPECTIVE PERMANENT PLACEMENT AT LEAST FIFTEEN DAYS BEFORE A HEARING ON

1 THE MOTION. IF THE PROSPECTIVE PERMANENT PLACEMENT DOES NOT APPEAR AT A
2 HEARING ON A MOTION FOR REMOVAL, THE COURT MAY NOT TAKE ANY ACTION ON THE
3 MOTION UNLESS THE COURT FINDS THAT GOOD FAITH EFFORTS WERE MADE TO PROVIDE A
4 COPY OF THE MOTION TO THE PROSPECTIVE PERMANENT PLACEMENT. THE PROSPECTIVE
5 PERMANENT PLACEMENT HAS THE RIGHT TO BE HEARD IN THE PROCEEDING. THIS RIGHT
6 DOES NOT REQUIRE THAT THE PROSPECTIVE PERMANENT PLACEMENT BE MADE A PARTY TO
7 THE PROCEEDING SOLELY ON THE BASIS OF THAT RIGHT. THIS SUBSECTION DOES NOT
8 APPLY TO ANY REMOVAL PURSUANT TO SECTION 8-802 OR 8-821. IF THE CHILD IS AN
9 INDIAN CHILD AS DEFINED PURSUANT TO THE INDIAN CHILD WELFARE ACT (25 UNITED
10 STATES CODE SECTION 1903), THE COURT AND THE PARTIES MUST COMPLY WITH ALL
11 APPLICABLE REQUIREMENTS OF THAT ACT. For the purposes of this subsection, a
12 prospective permanent placement includes:

13 1. A grandparent or another member of the child's extended family
14 including a person who has a significant relationship with the child.

15 2. A person or persons with an expressed interest in being the
16 permanent placement for the child in a certified adoptive home where the
17 child resides, a home that is a permanent placement for a sibling of the
18 child or a licensed family foster home where the child resides.

19 I. This section does not prevent the department from presenting for
20 the court's consideration a grandparent or another member of the child's
21 extended family including a person who has a significant relationship with
22 the child and who has not been identified as a prospective permanent
23 placement for the child before the child's placement with a prospective
24 permanent placement.

25 Sec. 4. Section 36-3435, Arizona Revised Statutes, is amended to read:
26 36-3435. Intergovernmental agreement; needs and resources
27 assessment; funding and service delivery plan;
28 definition

29 A. Pursuant to section 11-952 the department of health services, the
30 department of economic security, the state department of corrections, the
31 department of education and the supreme court shall enter into an
32 intergovernmental agreement to develop a coordinated multiagency assessment
33 of needs and resources and to develop a plan for interagency cooperation
34 relating to funding and service delivery for children with behavioral health
35 problems. The plan shall designate agency areas of responsibility for
36 delivery of services. The needs and resources assessment study shall be
37 completed within one year after the intergovernmental agreement is entered
38 into. The funding and service delivery plan shall be completed within two
39 years after the agreement is entered into.

40 B. THE DEPARTMENT OF HEALTH SERVICES SHALL REQUIRE EACH CONTRACT THAT
41 IS AWARDED, RENEWED OR AMENDED WITH ANY REGIONAL BEHAVIORAL HEALTH AUTHORITY,
42 SUBCONTRACTOR OR SERVICE PROVIDER TO SPECIFY THAT EVERY REASONABLE EFFORT
43 MUST BE MADE TO PROVIDE SERVICES OUTSIDE OF REGULAR SCHOOL HOURS FOR ANY
44 CHILD WHO IS PLACED IN OUT-OF-HOME CARE PURSUANT TO TITLE 8, CHAPTER 10.

45 C. FOR THE PURPOSES OF THIS SECTION, "SERVICES" INCLUDES APPOINTMENTS
46 AND ACTIVITIES NOT RELATED TO SCHOOL.

APPROVED BY THE GOVERNOR APRIL 26, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2011.

Passed the House April 14, 2011,

Passed the Senate March 17, 2011,

by the following vote: 55 Ayes,

by the following vote: 28 Ayes,

1 Nays, 4 Not Voting

0 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Cheryl Laube
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

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1560

**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

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 20, 20 11,
by the following vote: 48 Ayes,

8 Nays, 4 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 20, 20 11,
by the following vote: 27 Ayes,

9 Nays, 3 Not Voting

[Signature]
President of the Senate

Charmian Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 20 day of April, 20 11,

at 12:00 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 26th day of
April, 20 11,

at 10:00 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 26th day of April, 20 11,

at 2:55 o'clock P. M.

[Signature]
Secretary of State

S.B. 1560