



STATE OF ARIZONA

JANICE K. BREWER
GOVERNOR

EXECUTIVE OFFICE

May 2, 2013

The Honorable Andy Biggs
President of the Senate
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

Re: Senate Bill 1291 (duty to report abuse; exception)

Dear President Biggs,

Today, I signed Senate Bill 1291. The bill exempts injuries that occur in the course of typical playground activity during a school day on the school premises from being reported to Child Protective Services (CPS) or law enforcement.

The intent of the bill is to curb unnecessary reporting to CPS or law enforcement in cases of typical playground accidents. I recognize that schools should have discretion in how to respond to everyday injuries on the playground, and children who are involved in minor playground accidents should not have a permanent record on their school file.

However, the changes proposed in this legislation require teachers and school staff to make determinations as to whether the injury was truly accidental and not the result of a negligent caregiver or a bully.

For this reason, school personnel, and the general public at large, should err on the side of caution when considering whether or not to report an injury to a minor to CPS or law enforcement. After all, children are vulnerable. It is our duty to ensure there are adequate safeguards in place to keep them out of harm's way.

I encourage the sponsor to work closely with CPS, law enforcement, schools, and other community stakeholders to thoroughly review how to best implement the legislation in order to avoid unintended consequences.

Sincerely,

A handwritten signature in cursive script that reads "Janice K. Brewer".

Janice K. Brewer
Governor

cc: The Honorable Andy Tobin
The Honorable Gail Griffin

Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

CHAPTER 182

SENATE BILL 1291

AN ACT

AMENDING SECTION 13-3620, ARIZONA REVISED STATUTES; RELATING TO SCHOOL REPORTING REQUIREMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3620, Arizona Revised Statutes, is amended to
3 read:

4 13-3620. Duty to report abuse, physical injury, neglect and
5 denial or deprivation of medical or surgical care or
6 nourishment of minors; medical records; exception;
7 violation; classification; definitions

8 A. Any person who reasonably believes that a minor is or has been the
9 victim of physical injury, abuse, child abuse, a reportable offense or
10 neglect that appears to have been inflicted on the minor by other than
11 accidental means or that is not explained by the available medical history as
12 being accidental in nature or who reasonably believes there has been a denial
13 or deprivation of necessary medical treatment or surgical care or nourishment
14 with the intent to cause or allow the death of an infant who is protected
15 under section 36-2281 shall immediately report or cause reports to be made of
16 this information to a peace officer or to child protective services in the
17 department of economic security, except if the report concerns a person who
18 does not have care, custody or control of the minor, the report shall be made
19 to a peace officer only. A member of the clergy, A christian science
20 practitioner or A priest who has received a confidential communication or a
21 confession in that person's role as a member of the clergy, A christian
22 science practitioner or a priest in the course of the discipline enjoined by
23 the church to which the member of the clergy, christian science practitioner
24 or priest belongs may withhold reporting of the communication or confession
25 if the member of the clergy, christian science practitioner or priest
26 determines that it is reasonable and necessary within the concepts of the
27 religion. This exemption applies only to the communication or confession and
28 not to personal observations the member of the clergy, christian science
29 practitioner or priest may otherwise make of the minor. For the purposes of
30 this subsection, "person" means:

31 1. Any physician, physician's assistant, optometrist, dentist,
32 osteopath, chiropractor, podiatrist, behavioral health professional, nurse,
33 psychologist, counselor or social worker who develops the reasonable belief
34 in the course of treating a patient.

35 2. Any peace officer, member of the clergy, priest or christian
36 science practitioner.

37 3. The parent, stepparent or guardian of the minor.

38 4. School personnel or domestic violence victim advocate ADVOCATES who
39 develop the reasonable belief in the course of their employment.

40 5. Any other person who has responsibility for the care or treatment
41 of the minor.

42 B. A report is not required under this section EITHER:

43 1. For conduct prescribed by sections 13-1404 and 13-1405 if the
44 conduct involves only minors who are fourteen, fifteen, sixteen or seventeen

1 years of age and there is nothing to indicate that the conduct is other than
2 consensual.

3 2. IF A MINOR IS OF ELEMENTARY SCHOOL AGE, THE PHYSICAL INJURY OCCURS
4 ACCIDENTALLY IN THE COURSE OF TYPICAL PLAYGROUND ACTIVITY DURING A SCHOOL
5 DAY, OCCURS ON THE PREMISES OF THE SCHOOL THAT THE MINOR ATTENDS AND IS
6 REPORTED TO THE LEGAL PARENT OR GUARDIAN OF THE MINOR AND THE SCHOOL
7 MAINTAINS A WRITTEN RECORD OF THE INCIDENT.

8 C. If a physician, psychologist or behavioral health professional
9 receives a statement from a person other than a parent, stepparent, guardian
10 or custodian of the minor during the course of providing sex offender
11 treatment that is not court ordered or that does not occur while the offender
12 is incarcerated in the state department of corrections or the department of
13 juvenile corrections, the physician, psychologist or behavioral health
14 professional may withhold the reporting of that statement if the physician,
15 psychologist or behavioral health professional determines it is reasonable
16 and necessary to accomplish the purposes of the treatment.

17 D. Reports shall be made immediately by telephone or in person and
18 shall be followed by a written report within seventy-two hours. The reports
19 shall contain:

20 1. The names and addresses of the minor and the minor's parents or the
21 person or persons having custody of the minor, if known.

22 2. The minor's age and the nature and extent of the minor's abuse,
23 child abuse, physical injury or neglect, including any evidence of previous
24 abuse, child abuse, physical injury or neglect.

25 3. Any other information that the person believes might be helpful in
26 establishing the cause of the abuse, child abuse, physical injury or neglect.

27 E. A health care professional who is regulated pursuant to title 32
28 and who, after a routine newborn physical assessment of a newborn infant's
29 health status or following notification of positive toxicology screens of a
30 newborn infant, reasonably believes that the newborn infant may be affected
31 by the presence of alcohol or a drug listed in section 13-3401 shall
32 immediately report this information, or cause a report to be made, to child
33 protective services in the department of economic security. For the purposes
34 of this subsection, "newborn infant" means a newborn infant who is under
35 thirty days of age.

36 F. Any person other than one required to report or cause reports to be
37 made under subsection A of this section who reasonably believes that a minor
38 is or has been a victim of abuse, child abuse, physical injury, a reportable
39 offense or neglect may report the information to a peace officer or to child
40 protective services in the department of economic security, except if the
41 report concerns a person who does not have care, custody or control of the
42 minor, the report shall be made to a peace officer only.

43 G. A person who has custody or control of medical records of a minor
44 for whom a report is required or authorized under this section shall make the

1 records, or a copy of the records, available to a peace officer or child
2 protective services worker investigating the minor's neglect, child abuse,
3 physical injury or abuse on written request for the records signed by the
4 peace officer or child protective services worker. Records disclosed
5 pursuant to this subsection are confidential and may be used only in a
6 judicial or administrative proceeding or investigation resulting from a
7 report required or authorized under this section.

8 H. When telephone or in-person reports are received by a peace
9 officer, the officer shall immediately notify child protective services in
10 the department of economic security and make the information available to
11 ~~them~~ CHILD PROTECTIVE SERVICES. Notwithstanding any other statute, when
12 child protective services receives these reports by telephone or in person,
13 it shall immediately notify a peace officer in the appropriate jurisdiction.

14 I. Any person who is required to receive reports pursuant to
15 subsection A of this section may take or cause to be taken photographs of the
16 minor and the vicinity involved. Medical examinations of the involved minor
17 may be performed.

18 J. A person who furnishes a report, information or records required or
19 authorized under this section, or a person who participates in a judicial or
20 administrative proceeding or investigation resulting from a report,
21 information or records required or authorized under this section, is immune
22 from any civil or criminal liability by reason of that action unless the
23 person acted with malice or unless the person has been charged with or is
24 suspected of abusing or neglecting the child or children in question.

25 K. Except for the attorney client privilege or the privilege under
26 subsection L of this section, no privilege applies to any:

27 1. Civil or criminal litigation or administrative proceeding in which
28 a minor's neglect, dependency, abuse, child abuse, physical injury or
29 abandonment is an issue.

30 2. Judicial or administrative proceeding resulting from a report,
31 information or records submitted pursuant to this section.

32 3. Investigation of a minor's child abuse, physical injury, neglect or
33 abuse conducted by a peace officer or child protective services in the
34 department of economic security.

35 L. In any civil or criminal litigation in which a child's neglect,
36 dependency, physical injury, abuse, child abuse or abandonment is an issue, a
37 member of the clergy, a christian science practitioner or a priest shall not,
38 without his consent, be examined as a witness concerning any confession made
39 to him in his role as a member of the clergy, a christian science
40 practitioner or a priest in the course of the discipline enjoined by the
41 church to which he belongs. ~~Nothing in~~ This subsection ~~discharges~~ DOES NOT
42 DISCHARGE a member of the clergy, a christian science practitioner or a
43 priest from the duty to report pursuant to subsection A of this section.

1 M. If psychiatric records are requested pursuant to subsection G of
2 this section, the custodian of the records shall notify the attending
3 psychiatrist, who may excise from the records, before they are made
4 available:

5 1. Personal information about individuals other than the patient.

6 2. Information regarding specific diagnosis or treatment of a
7 psychiatric condition, if the attending psychiatrist certifies in writing
8 that release of the information would be detrimental to the patient's health
9 or treatment.

10 N. If any portion of a psychiatric record is excised pursuant to
11 subsection M of this section, a court, upon application of a peace officer
12 or child protective services worker, may order that the entire record or any
13 portion of the record that contains information relevant to the reported
14 abuse, child abuse, physical injury or neglect be made available to the peace
15 officer or child protective services worker investigating the abuse, child
16 abuse, physical injury or neglect.

17 O. A person who violates this section is guilty of a class 1
18 misdemeanor, except if the failure to report involves a reportable offense,
19 the person is guilty of a class 6 felony.

20 P. For the purposes of this section:

21 1. "Abuse" has the same meaning prescribed in section 8-201.

22 2. "Child abuse" means child abuse pursuant to section 13-3623.

23 3. "Neglect" has the same meaning prescribed in section 8-201.

24 4. "Reportable offense" means any of the following:

25 (a) Any offense listed in chapters 14 and 35.1 of this title or
26 section 13-3506.01.

27 (b) Surreptitious photographing, videotaping, filming or digitally
28 recording of OR VIEWING a minor pursuant to section 13-3019.

29 (c) Child prostitution pursuant to section 13-3212.

30 (d) Incest pursuant to section 13-3608.

31 Sec. 2. Expungement of student records

32 On approval of the local school board, a school may expunge a report
33 that is contained in a student's school file and that was made pursuant to
34 section 13-3620, Arizona Revised Statutes, before the effective date of this
35 act if the report involved a physical injury to a minor who was of elementary
36 school age that occurred in the course of typical playground activity during
37 a school day, occurred on the premises of the school that the minor attends
38 and that was reported to the minor's legal parent or guardian.

~~APPROVED BY THE GOVERNOR MAY 2, 2013.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2013.~~

Passed the House April 23, 2013,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate March 13, 2013,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30 day of April, 2013,

at 2:00 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 2nd day of

May, 2013,

at 2:47 o'clock P. M.

[Signature]
Governor of Arizona

S.B. 1291

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2nd day of May, 2013,

at 4:55 o'clock P M.

[Signature]
acting Secretary of State