House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

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

CHAPTER 220

SENATE BILL 1375

AN ACT

AMENDING SECTIONS 8-512, 8-802, 8-807, 13-3620 AND 41-1969.01, ARIZONA REVISED STATUTES; AMENDING LAWS 2012, CHAPTER 50, SECTION 1; RELATING TO HEALTH AND WELFARE OF CHILDREN AND ADULTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 8-512, Arizona Revised Statutes, is amended to read:

8-512. Comprehensive medical and dental care; guidelines

A. The department shall provide comprehensive medical and dental care, as prescribed by rules of the department, for each child who is:

1. Placed in a foster home.

2. In the custody of the department and placed with a relative.

3. In the custody of the department and placed in a certified adoptive home before the entry of the final order of adoption.

4. In the custody of the department and in an independent living program as provided in section 8-521.

5. In the custody of a probation department and placed in foster care. The department shall not provide this care if the cost exceeds funds currently appropriated and available for that purpose.

B. ON OR BEFORE OCTOBER 1, 2015, THE DEPARTMENT OF ECONOMIC SECURITY, IN COLLABORATION WITH THE DEPARTMENT OF HEALTH SERVICES AND THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION, SHALL:

1. DETERMINE THE MOST EFFICIENT AND EFFECTIVE WAY TO PROVIDE COMPREHENSIVE MEDICAL, DENTAL AND BEHAVIORAL HEALTH SERVICES, INCLUDING BEHAVIORAL HEALTH DIAGNOSTIC, EVALUATION AND TREATMENT SERVICES FOR CHILDREN WHO ARE PROVIDED CARE PURSUANT TO SUBSECTION A OF THIS SECTION.

2. DETERMINE THE NUMBER OF DISRUPTIONS OF PLACEMENTS IN FOSTER CARE BY AGE OF CHILD DUE TO BEHAVIORAL HEALTH MANAGEMENT ISSUES AND THE EXTENT EACH CHILD IS RECEIVING BEHAVIORAL HEALTH SERVICES.

3. DETERMINE THE NUMBER OF ADOPTED CHILDREN WHO HAVE ENTERED FOSTER CARE DUE TO THE ADOPTIVE PARENTS' INABILITY TO RECEIVE BEHAVIORAL HEALTH SERVICES TO ADEQUATELY MEET THE NEEDS OF THE CHILD AND PARENTS.

4. SUBMIT A REPORT OF ITS RECOMMENDATIONS FOR PROVIDING SERVICES PURSUANT TO THIS SUBSECTION TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE AND SHALL PROVIDE A COPY OF ITS REPORT TO THE SECRETARY OF STATE. THE COLLABORATIVE DETERMINATION SHALL CONSIDER AN ADMINISTRATIVELY INTEGRATED SYSTEM.

~~B.~~ C. The care may include~~, but is not limited to~~:

1. A program of regular health examinations and immunizations including as minimums:

(a) Vaccinations to prevent mumps, rubella, smallpox and polio.

(b) Tests for anemia, coccidioidomycosis and tuberculosis.

(c) Urinalysis, blood count and hemoglobin tests.

(d) Regular examinations for general PHYSICAL health, hearing and vision, including providing corrective devices when needed.

2. Inpatient and outpatient hospital care.

3. Necessary services of physicians, surgeons, psychologists and psychiatrists.

4. Dental care consisting of at least oral examinations including diagnostic radiographs, oral prophylaxis and topical fluoride applications, restoration of permanent and primary teeth, pulp therapy, extraction when necessary, fixed space maintainers where needed and other services for relief of pain and infection.

5. Drug prescription service.

~~C.~~ D. The facilities of any hospital or other institution within the state, public or private, may be employed by the foster parent, relative, certified adoptive parent, agency or division having responsibility for the care of the child.

~~D.~~ E. For inpatient hospital admissions and outpatient hospital services on or after March 1, 1993, the department shall reimburse a hospital according to the rates established by the Arizona health care cost containment system ADMINISTRATION pursuant to section 36-2903.01, subsection G.

~~E.~~ F. The department shall use the Arizona health care cost containment system ADMINISTRATION rates as identified in subsection ~~D~~ E of this section for any child eligible for services under this section.

~~F.~~ G. A hospital bill is considered received for purposes of subsection ~~H~~ I of this section on initial receipt of the legible, error-free claim form by the department if the claim includes the following error-free documentation in legible form:

1. An admission face sheet.
2. An itemized statement.
3. An admission history and physical.
4. A discharge summary or an interim summary if the claim is split.
5. An emergency record, if admission was through the emergency room.
6. Operative reports, if applicable.
7. A labor and delivery room report, if applicable.

~~G.~~ H. The department shall require that the hospital pursue other third party payors before submitting a claim to the department. Payment received by a hospital from the department is considered payment by the department of the department's liability for the hospital bill. A hospital may collect any unpaid portion of its bill from other third party payors or in situations covered by title 33, chapter 7, article 3.

~~H.~~ I. For inpatient hospital admissions and outpatient hospital services rendered on and after October 1, 1997, the department shall pay a hospital's rate established according to this section subject to the following:

1. If the hospital's bill is paid within thirty days of the date the bill was received, the department shall pay ninety-nine per cent of the rate.

2. If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the department shall pay one hundred per cent of the rate.

3. If the hospital's bill is paid any time after sixty days of the date the bill was received, the department shall pay one hundred per cent of the rate plus a fee of one per cent per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.

~~I.~~ J. For medical services other than those for which a rate has been established pursuant to section 36-2903.01, subsection G, the department shall pay according to the Arizona health care cost containment system capped fee-for-service schedule adopted pursuant to section 36-2904, subsection K.

~~J.~~ K. For any hospital or medical claims not covered under subsection ~~D~~ E or ~~I~~ J of this section, the department shall establish and adopt a schedule setting out maximum allowable fees that the department deems reasonable for such services after appropriate study and analysis of usual and customary fees charged by providers. The department shall not pay to any plan or intermediary that portion of the cost of any service provided that exceeds allowable charges prescribed by the department pursuant to this subsection.

~~K.~~ L. The department shall not pay claims for services pursuant to this section that are submitted more than one hundred eighty days after the date of the service for which the payment is claimed.

~~L.~~ M. The department may provide for payment through an insurance plan, hospital service plan, medical service plan, or any other health service plan authorized to do business in this state, fiscal intermediary or a combination of such plans or methods. The state shall not be liable for and the department shall not pay to any plan or intermediary any portion of the cost of comprehensive medical and dental care in excess of funds appropriated and available for such purpose at the time the plan or intermediary incurs the expense for such care.

~~M.~~ N. The total amount of state monies that may be spent in any fiscal year by the department for comprehensive medical and dental care shall not exceed the amount appropriated or authorized by section 35-173 for that purpose. This section shall not be construed to impose a duty on an officer, agent or employee of this state to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

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

8-802. <u>Child protective services worker; fingerprint clearance cards; powers and duties; alteration of files; violation; classification</u>

A. The department of economic security shall employ child protective services workers. All persons who are employed as child protective services workers shall have a valid fingerprint clearance card that is issued pursuant to section 41-1758.07 or shall apply for a fingerprint clearance card within seven working days of employment. A child protective services worker shall

certify on forms that are provided by the department of economic security and that are notarized whether the worker is awaiting trial on or has ever been convicted of any of the criminal offenses listed in section 41-1758.07, subsections B and C in this state or similar offenses in another state or jurisdiction.

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

C. ~~A~~ Child protective services ~~worker~~ shall:

1. Promote the safety and protection of children.

2. Accept, screen and assess reports of abuse or neglect:

(a) Pursuant to section 8-817.

(b) In level I residential treatment centers or in level II or level III behavioral health residential agencies that are licensed by the department of health services.

3. Receive reports of dependent, abused or abandoned children and be prepared to provide temporary foster care for these children on a twenty-four hour basis.

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

(a) The child initiates contact with the worker.

(b) The child who is interviewed is the subject of or is the sibling of or living with the child who is the subject of an abuse or abandonment investigation pursuant to paragraph 5, subdivision (b) of this subsection.

(c) The interview is conducted pursuant to the terms of the protocols established pursuant to section 8-817.

5. After the receipt of any report or information pursuant to paragraph 2, 3 or 4 of this subsection, immediately do ~~both~~ ALL of the following:

(a) Notify the municipal or county law enforcement agency AND THE OFFICE OF CHILD WELFARE INVESTIGATIONS.

(b) Make a prompt and thorough investigation. ~~of~~ AN INVESTIGATION MUST DETERMINE the nature, extent and cause of any condition that would tend to support or refute the allegation that the child should be adjudicated dependent and the name, age and condition of other children in the home UNLESS THE REPORT CONTAINS A CRIMINAL CONDUCT ALLEGATION BEING INVESTIGATED BY THE OFFICE OF CHILD WELFARE INVESTIGATIONS. ~~A criminal conduct allegation shall be investigated according to the protocols established pursuant to section 8-817 with the appropriate municipal or county law enforcement agency as provided in section 8-817.~~

(c) ASSIST THE OFFICE OF CHILD WELFARE INVESTIGATIONS AS DIRECTED BY THE DIRECTOR OF THE DEPARTMENT OF ECONOMIC SECURITY.

6. Take a child into temporary custody as provided in section 8-821, SUBJECT TO SECTION 41-1969.01. Law enforcement officers shall cooperate with

the department to remove a child from the custody of the child's parents, guardian or custodian when necessary.

7. After investigation, evaluate conditions created by the parents, guardian or custodian that would support or refute the allegation that the child should be adjudicated dependent. The child protective services worker shall then determine whether any child is in need of protective services.

8. Offer to the family of any child who is found to be a child in need of protective services those services that are designed to correct unresolved problems that would indicate a reason to adjudicate the child dependent.

9. Submit a written report of the worker's investigation to:

(a) The department's case management information system within a reasonable time period that does not exceed forty-five days after receipt of the initial information except as provided in section 8-811. If the investigation involves allegations regarding a child who at the time of the alleged incident was in the custody of a child welfare agency licensed by the department of economic security under this title, a copy of the report and any additional investigative or other related reports shall be provided to the board of directors of the agency or to the administrative head of the agency unless the incident is alleged to have been committed by the person. The department shall excise all information with regard to the identity of the source of the reports.

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

10. Accept a child into voluntary placement pursuant to section 8-806.

11. Make a good faith effort to promptly obtain and abide by court orders that restrict or deny custody, visitation or contact by a parent or other person in the home with the child. As part of the good faith effort, the child protective services worker shall ask the parent, guardian or custodian under investigation if a current court order exists.

D. A child shall not remain in temporary custody for a period exceeding seventy-two hours, excluding Saturdays, Sundays and holidays, unless a dependency petition is filed. If a petition is not filed and the child is released to the child's parent, guardian or custodian, the worker shall file a report of removal with the central registry within seventy-two hours of the child's release. The report shall include:

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

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

E. The department shall provide child protective services workers who investigate ~~allegations~~ REPORTS of abuse and neglect with training in forensic interviewing and processes~~,~~ AND the protocols established pursuant to section 8-817 ~~and relevant law enforcement procedures~~. All child

protective services workers shall be trained in their duty to protect the legal rights of children and families from the time of the initial contact through treatment. The training shall include knowledge of a child's rights as a victim of crime. The training for child protective services workers shall also include instruction on the legal rights of parents ~~and the requirements for legal search and seizure by law enforcement officers~~.

F. In conducting an investigation pursuant to this section, if the worker is made aware that an allegation of abuse or neglect may also have been made in another state, the worker shall contact the appropriate agency in that state to attempt to determine the outcome of any investigation of that allegation.

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

H. THE DEPARTMENT OF ECONOMIC SECURITY SHALL DEVELOP AN ALTERNATIVE RESPONSE FOR DESIGNATED REPORTS.

Sec. 3. Section 8-807, Arizona Revised Statutes, is amended to read:

8-807. <u>CPS information; public record; use; confidentiality; violation; classification; definitions</u>

A. CPS information shall be maintained by the department as required by federal law as a condition of the allocation of federal monies to this state. All exceptions for the public release of CPS information shall be construed as openly as possible under federal law.

B. The department, or a person who receives CPS information pursuant to this subsection, shall provide CPS information to a federal agency, a state agency, a tribal agency, a county or municipal agency, a law enforcement agency, a prosecutor, an attorney or a guardian ad litem representing a child victim of crime pursuant to article II, section 2.1, Constitution of Arizona, a school, a community service provider, a contract service provider or any other person that is providing services pursuant to this chapter:

1. To meet its duties to provide for the safety, permanency and well-being of a child, provide services to a parent, guardian or custodian or provide services to family members to strengthen the family pursuant to this chapter.

2. To enforce or prosecute any violation involving child abuse or neglect.

3. To provide information to a defendant after a criminal charge has been filed as required by an order of the criminal court.

C. The department shall disclose CPS information to a court, a party in a dependency or termination of parental rights proceeding or the party's attorney, the foster care review board or a court appointed special advocate for the purposes of and as prescribed in this title.

D. The department shall disclose CPS information to a domestic relations, family or conciliation court if the CPS information is necessary

to promote the safety and well-being of children. The court shall notify the parties that it has received the CPS information.

E. A person or agent of a person who is the subject of CPS information shall have access to CPS information concerning that person.

F. The department:

1. May provide CPS information to confirm, clarify or correct information concerning an allegation or actual instance of child abuse or neglect that has been made public by sources outside the department.

2. Shall promptly provide CPS information to the public regarding a case of child abuse, abandonment or neglect that has resulted in a fatality or near fatality as follows:

(a) The department shall provide preliminary information including AT A MINIMUM:

(i) The name, age and city, town or general location of residence of the child who has suffered a near fatality or fatality.

(ii) The fact that a child suffered a near fatality or fatality as the result of abuse, abandonment or neglect.

(iii) The name, age and city, town or general location of residence of the alleged perpetrator, if available.

(iv) Whether there have been reports, or any current or past cases, of abuse, abandonment or neglect involving the child and the current alleged abusive or neglectful parent, guardian or custodian.

(v) Actions taken by child protective services in response to the fatality or near fatality of the child.

(vi) A DETAILED SYNOPSIS OF PRIOR REPORTS OR CASES OF ABUSE, ABANDONMENT OR NEGLECT INVOLVING THE CHILD AND THE CURRENT ALLEGED ABUSIVE OR NEGLECTFUL PARENT, GUARDIAN OR CUSTODIAN AND OF THE ACTIONS TAKEN OR DETERMINATIONS MADE BY CHILD PROTECTIVE SERVICES IN RESPONSE TO THESE REPORTS OR CASES.

(b) On request by any person, the department shall promptly provide additional CPS information to the requestor. Before releasing additional CPS information, the department shall promptly notify the county attorney of any decision to release that information, and the county attorney shall promptly inform the department if it believes the release would cause a specific, material harm to a criminal investigation. After consulting with the county attorney, pursuant to subdivision (c) of this paragraph, the department shall produce to the requestor as much additional CPS information as promptly as possible about a case of child abuse, abandonment or neglect that resulted in a fatality or near fatality.

(c) On request, the department shall continue to provide CPS information promptly to the public about a fatality or near fatality unless:

(i) After consultation with the county attorney, the county attorney demonstrates that release of particular CPS information would cause a specific, material harm to a criminal investigation.

(ii) The release would violate subsection A or K of this section or the privacy of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

(d) If any person believes that the county attorney has failed to demonstrate that release would cause a specific, material harm to a criminal investigation, that person may file an action in superior court pursuant to title 39, chapter 1, article 2 and subsection I of this section and request the court to review the CPS information in camera and order disclosure.

3. May provide CPS information to a person who is conducting bona fide research, the results of which might provide CPS information that is beneficial in improving child protective services.

4. May provide access to CPS information to the parent, guardian or custodian of a child if the CPS information is reasonably necessary to promote the safety, permanency and well-being of the child.

G. Access to CPS information in the central registry shall be provided as prescribed in section 8-804.

H. To provide oversight of child protective services, the department shall provide access to CPS information to the following persons, if the CPS information is reasonably necessary for the person to perform the person's official duties:

1. Federal or state auditors.

2. Persons conducting any accreditation deemed necessary by the department.

3. A standing committee of the legislature or a committee appointed by the president of the senate or the speaker of the house of representatives for purposes of conducting investigations related to the legislative oversight of the department of economic security. This information shall not be further disclosed unless a court has ordered the disclosure of this information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding.

4. A legislator who requests CPS information in the regular course of the legislator's duties. This information shall not be further disclosed unless a court has ordered the disclosure of this information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding. To request a file pursuant to this paragraph:

(a) The legislator shall submit a written request for CPS information to the presiding officer of the body of which the state legislator is a member. The request shall state the name of the person whose case file is to be reviewed and any other information that will assist the department in locating the file.

(b) The presiding officer shall forward the request to the department within five working days of the receipt of the request.

(c) The department shall make the necessary arrangements for the legislator to review the file at an office of the department, chosen by the legislator, within ten working days.

(d) The legislator shall sign a form, consistent with the requirements of this paragraph and paragraph 3 of this subsection, before reviewing the file, that outlines the confidentiality laws governing child protective services files and penalties for further release of the information.

5. A citizen review panel as prescribed by federal law, a child fatality review team as provided in title 36, chapter 35 and the office of ombudsman-citizens aide.

I. A person who has been denied CPS information regarding a fatality or near fatality caused by abuse, abandonment or neglect pursuant to subsection F, paragraph 2 or subsection K of this section may bring a special action pursuant to section 39-121.02 in the superior court to order the department to release that CPS information. A legislator has standing to bring or to join a special action regarding the release of CPS information or to challenge the redaction of released CPS information. The plaintiff shall provide notice to the county attorney, who has standing and may participate in the action. The court shall review the requested records in camera and order disclosure consistent with subsection A, subsection F, paragraph 2 and subsection K of this section. The court shall take reasonable steps to prevent any clearly unwarranted invasions of privacy and protect the privacy and dignity of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

J. The department or a person who is not specifically authorized by this section to obtain CPS information may petition a judge of the superior court to order the department to release CPS information. The plaintiff shall provide notice to the county attorney, who has standing and may participate in the action. The court shall review the requested records in camera and shall balance the rights of the parties who are entitled to confidentiality pursuant to this section against the rights of the parties who are seeking the release of the CPS information. The court may release otherwise confidential CPS information only if the rights of the parties seeking the CPS information and any benefits from releasing the CPS information outweigh the rights of the parties who are entitled to confidentiality and any harm that may result from releasing the CPS information. The court shall take reasonable steps to prevent any clearly unwarranted invasions of privacy and protect the privacy and dignity of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

K. Except as provided in subsection L of this section, before it releases records under this section, the department shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of a person who reports child abuse or neglect and to protect any other person if the department believes that disclosure of the CPS

information would be likely to endanger the life or safety of any person. The department is not required by this section to disclose CPS information if the department demonstrates that disclosure would cause a specific, material harm to a child protective services investigation. The department is not required by this section to disclose CPS information if, in consultation with the county attorney, the county attorney demonstrates that disclosure would cause a specific, material harm to a criminal investigation.

L. A person who is the subject of an unfounded report or complaint made pursuant to this chapter and who believes that the report or complaint was made in bad faith or with malicious intent may petition a judge of the superior court to order the department to release the CPS information. The petition shall specifically set forth reasons supporting the person's belief that the report or complaint was made in bad faith or with malicious intent. The court shall review the CPS information in camera and the person filing the petition shall be allowed to present evidence in support of the petition. If the court determines that there is a reasonable question of fact as to whether the report or complaint was made in bad faith or with malicious intent and that disclosure of the identity of the person making the report or complaint would not be likely to endanger the life or safety of the person making the report or complaint, it shall provide a copy of the CPS information to the person filing the petition and the original CPS information is subject to discovery in a subsequent civil action regarding the making of the report or complaint.

M. The department shall provide the person who conducts a forensic medical evaluation with any records the person requests, including social history and family history regarding the child, the child's siblings and the child's parents or guardians.

N. The department shall provide CPS information on request to a prospective adoptive parent, foster parent or guardian, if the information concerns a child the prospective adoptive parent, foster parent or guardian seeks to adopt or provide care for.

O. If the department receives information that is confidential by law, the department shall maintain the confidentiality of the information as prescribed in the applicable law.

P. A person may authorize the release of CPS information about the person but may not waive the confidentiality of CPS information concerning any other person.

Q. The department may provide a summary of the outcome of a child protective services investigation to the person who reported the suspected child abuse or neglect.

R. The department shall adopt rules to facilitate the accessibility of CPS information.

S. The department may charge a fee for copying costs required to prepare CPS information for release pursuant to this section.

T. A person who violates this section is guilty of a class 2 misdemeanor.

U. For the purposes of this section:

1. "CPS information" includes all information the department gathers during the course of a child protective services investigation conducted under this chapter from the time a file is opened and until it is closed. CPS information does not include information that is contained in child welfare agency licensing records.

2. "Near fatality" means an act that, as certified by a physician, including the child's treating physician, places a child in serious or critical condition.

Sec. 4. Section 13-3620, Arizona Revised Statutes, is amended to read:

13-3620. <u>Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions</u>

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

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

2. Any peace officer, CHILD WELFARE INVESTIGATOR, CHILD PROTECTIVE SERVICES WORKER, member of the clergy, priest or christian science practitioner.

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

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

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

B. A report is not required under this section for conduct prescribed by sections 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual.

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

D. Reports shall be made immediately by telephone or ELECTRONICALLY. ~~in person and shall be followed by a written report within seventy-two hours.~~ The reports shall contain the FOLLOWING INFORMATION, IF KNOWN:

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

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

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

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

F. Any person other than one required to report or cause reports to be made under subsection A of this section who reasonably believes that a minor is or has been a victim of abuse, child abuse, physical injury, a reportable offense or neglect may report the information to a peace officer or to child protective services in the department of economic security, except if the

report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.

G. A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a peace officer, CHILD WELFARE INVESTIGATOR or child protective services worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer, CHILD WELFARE INVESTIGATOR or child protective services worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

H. When ~~telephone or in-person~~ reports are received by a peace officer, the officer shall immediately notify child protective services in the department of economic security and make the information available to ~~them~~ CHILD PROTECTIVE SERVICES. Notwithstanding any other statute, when child protective services receives these reports ~~by telephone or in person~~, it shall immediately notify a peace officer in the appropriate jurisdiction AND THE OFFICE OF CHILD WELFARE INVESTIGATIONS IN THE DEPARTMENT OF ECONOMIC SECURITY.

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

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

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

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

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

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

L. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a christian science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made

to him in his role as a member of the clergy, a christian science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. ~~Nothing in~~ This subsection ~~discharges~~ DOES NOT DISCHARGE a member of the clergy, a christian science practitioner or a priest from the duty to report pursuant to subsection A of this section.

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

1. Personal information about individuals other than the patient.

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

N. If any portion of a psychiatric record is excised pursuant to subsection M of this section, a court, ~~upon~~ ON application of a peace officer, CHILD WELFARE INVESTIGATOR or child protective services worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, child abuse, physical injury or neglect be made available to the peace officer, CHILD WELFARE INVESTIGATOR or child protective services worker investigating the abuse, child abuse, physical injury or neglect.

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

P. For the purposes of this section:

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

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

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

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

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

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

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

(d) Incest pursuant to section 13-3608.

Sec. 5. Section 41-1969.01, Arizona Revised Statutes, is amended to read:

41-1969.01. <u>Office of child welfare investigations; training; responsibilities; annual report</u>

A. In addition to the powers and duties of the director pursuant to sections 41-1953 and 41-1954, the director shall establish the office of child welfare investigations within the department. The director is responsible for the direction, operation and control of the office.

B. THE DUTIES OF THE OFFICE INCLUDE INVESTIGATING CRIMINAL CONDUCT ALLEGATIONS, COORDINATING WITH CHILD PROTECTIVE SERVICES AND LAW ENFORCEMENT, ESTABLISHING TASK FORCES FOR THE INVESTIGATION OF CRIMINAL CONDUCT AND OTHER DUTIES AS MAY BE ASSIGNED BY THE DIRECTOR.

~~B.~~ C. The office shall employ child welfare investigators who have received training to understand law enforcement's role in cases of criminal child abuse or neglect and in social services offered by the department. ~~Child welfare investigators do not have the authority of peace officers. A child welfare investigator~~ THE OFFICE MAY EMPLOY RESEARCH ANALYSTS AND PEACE OFFICERS FOR THE PURPOSE OF OBTAINING AN ORIGINATING AGENCY IDENTIFICATION NUMBER TO HAVE DIRECT ACCESS TO CRIMINAL HISTORY REPORT INFORMATION. EACH PERSON HIRED BY THE OFFICE is an employee of the department and shall comply with the fingerprint requirements of section 41-1968.

~~C.~~ D. The department, in coordination with the Arizona peace officer standards and training board, shall provide child welfare investigators with training. The training shall be, at a minimum, in the following areas:

1. First ~~responder's~~ RESPONDER training ON RESPONDING to reports of child abuse.

2. Forensic interviewing and processes.

3. Child physical and sexual abuse investigation ~~training~~.

4. The protocols established pursuant to section 8-817.

5. Relevant law enforcement procedures, including the collection and preservation of evidence.

6. A child's constitutional rights as a victim of a crime pursuant to article II, section 2.1, Constitution of Arizona.

7. Any other training as directed by the director.

~~D.~~ E. A child welfare investigator shall:

1. Protect children.

2. ~~Respond to and investigate all criminal conduct allegations as defined in section 8-801 received by the department.~~ ASSESS, RESPOND TO OR INVESTIGATE ALL CRIMINAL CONDUCT ALLEGATIONS AS DEFINED IN SECTION 8-801, WHICH SHALL BE A PRIORITY, BUT NOT OTHERWISE EXERCISE THE AUTHORITY OF A PEACE OFFICER.

3. ~~Receive from any source oral or written information regarding a child who may be in need of protective services because of criminal child abuse or neglect.~~ An investigator shall not interview a child without the prior written consent of the parent, guardian or custodian of the child unless either:

(a) The child initiates contact with the investigator.

(b) The child who is interviewed is the subject of, is the sibling of or IS living with the child who is the subject of an abuse or abandonment investigation pursuant to paragraph 4, subdivision (b) of this subsection.

(c) The interview is conducted pursuant to the terms of the protocols established pursuant to section 8-817.

4. After the receipt of any report or information pursuant to paragraph 2 ~~or 3~~ of this subsection, immediately do both of the following:

(a) Notify the appropriate municipal or county law enforcement agency IF THEY HAVE NOT ALREADY BEEN NOTIFIED.

(b) Make a prompt and thorough investigation of the nature, extent and cause of any condition that would tend to support or refute the ~~allegation that the child should be adjudicated dependent and the name, age and condition of other children in the home~~ REPORT OF CHILD ABUSE OR NEGLECT WHEN INVESTIGATING ALLEGATIONS PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION. A criminal conduct allegation shall be investigated with the appropriate municipal or county law enforcement agency according to the protocols established pursuant to section 8-817.

5. Take a child into temporary custody as provided in section 8-821. Law enforcement officers shall cooperate with the department to remove a child from the custody of the child's parents, guardian or custodian pursuant to section 8-821. A CHILD WELFARE INVESTIGATOR WHO IS RESPONDING TO OR INVESTIGATING A REPORT CONTAINING A CRIMINAL CONDUCT ALLEGATION SHALL HAVE THE PRIMARY RESPONSIBILITY FOR MAKING THE DECISION WHETHER TO TAKE A CHILD INTO TEMPORARY CUSTODY.

6. ~~After investigation,~~ Evaluate conditions created by the parents, guardian or custodian that would support or refute the allegation that the child should be adjudicated dependent. The investigator shall then determine whether any child is in need of protective services.

7. Identify, promptly obtain and abide by court orders that restrict or deny custody, visitation or contact by a parent or other person in the home with the child and notify appropriate personnel within the department to preclude violations of a court order in the provision of any services.

8. ON INITIAL CONTACT WITH THE PARENT, GUARDIAN OR CUSTODIAN OF A CHILD WHO IS THE SUBJECT OF AN INVESTIGATION PURSUANT TO THIS SECTION, PROVIDE THE PARENT, GUARDIAN OR CUSTODIAN WITH THE ALLEGATION RECEIVED BY THE DEPARTMENT. THIS PARAGRAPH DOES NOT REQUIRE THE DEPARTMENT TO DISCLOSE DETAILS OR INFORMATION THAT WOULD COMPROMISE AN ONGOING CRIMINAL INVESTIGATION.

~~E.~~ F. Unless a dependency petition is filed, a child shall not remain in temporary custody for a period exceeding seventy-two hours, excluding Saturdays, Sundays and holidays. If a petition is not filed, ~~and~~ the child ~~is~~ SHALL BE released to the child's parent, guardian or custodian~~, the investigator shall file a report of removal within seventy-two hours after the child's release. The report shall include:~~

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

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

~~F.~~ G. In conducting an investigation pursuant to this section, if the investigator is made aware that an allegation of abuse or neglect may also

have been made in another state, the investigator shall contact the appropriate agency in that state to attempt to determine the outcome of any investigation of that allegation.

~~G.~~ H. The office of child welfare investigations shall submit an annual report on joint investigations conducted during the year pursuant to section 8-817.

~~H.~~ I. All ~~information the office gathers~~ RECORDS GATHERED OR CREATED BY THE DEPARTMENT during ~~the course of~~ an investigation conducted under this section ~~is~~ ARE confidential ~~information as defined~~ AND SHALL BE PROTECTED AND RELEASED AS PRESCRIBED in section 8-807, EXCEPT THE DEPARTMENT SHALL NOT RELEASE RECORDS IF THE DEPARTMENT DETERMINES THAT THE RELEASE OF THESE RECORDS MAY COMPROMISE AN ONGOING INVESTIGATION.

J. NOTHWITHSTANDING ANY OTHER LAW, THE OFFICE OF CHILD WELFARE INVESTIGATIONS IS NOT RESPONSIBLE FOR CONDUCTING THE CRIMINAL INVESTIGATION OF THE CRIMES LISTED IN SECTION 8-801.

Sec. 6. Laws 2012, chapter 50, section 1 is amended to read:

Section 1. Child protective services oversight committee; membership; duties; delayed repeal

A. The child protective services oversight committee is established consisting of the following members:

1. Two members of the house of representatives who are appointed by the speaker of the house of representatives and who are not members of the same political party. The speaker of the house of representatives shall designate one of these members to serve as cochairperson of the committee.

2. Two members of the senate who are appointed by the president of the senate and who are not members of the same political party. The president of the senate shall designate one of these members to serve as cochairperson of the committee.

3. The director of the department of economic security or the director's designee.

4. One member of a law enforcement agency in this state. The speaker of the house of representatives shall appoint this member.

5. One child protective services case worker OR ADMINISTRATOR WITH CHILD PROTECTIVE SERVICES CASE WORKER KNOWLEDGE who is appointed by the director of the department of economic security.

6. One foster parent who is appointed by the director of the department of economic security.

7. One guardian ad litem who is appointed by the director of the administrative office of the courts.

8. ONE FORMER FOSTER CHILD WHO IS APPOINTED BY THE PRESIDENT OF THE SENATE.

9. ONE REPRESENTATIVE FROM A FOSTER CARE LICENSING AGENCY WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

10. ONE PUBLIC MEMBER WHO HAS SIGNIFICANT EXPERIENCE WITH CHILD PROTECTIVE SERVICES WHO IS APPOINTED BY THE PRESIDENT OF THE SENATE.

B. The study committee shall:

1. Identify the responsibilities and scope of child protective services, its statutory mandates and department of economic security policies and procedures relating to that agency.

2. Identify areas for statutory improvement in the child protective services system and recommend statutory and administrative changes.

~~3. Determine if private sector efficiencies can be used in collaboration with the current public sector model to achieve the goals of child protective services.~~

~~4. Examine the use and effectiveness of privatization of the functions of child protective services in other states.~~

~~5. Determine methods to ensure coordination between child protective services and local law enforcement agencies.~~

3. MONITOR CHILD PROTECTIVE SERVICES PROGRAM EFFECTIVENESS AND RECOMMEND ANY STATUTORY EFFICIENCIES THAT FURTHER THE PURPOSE TO PROTECT CHILDREN.

4. REVIEW ALL SEMIANNUAL REPORTS ON PROGRAM OUTCOMES RELEASED BY CHILD PROTECTIVE SERVICES TO THE LEGISLATURE FOR TRENDS AND AREAS FOR STATUTORY IMPROVEMENT.

~~6.~~ 5. On or before ~~November 15, 2012~~ DECEMBER 15, 2014, submit a report of its findings and recommendations to the governor, the speaker of the house of representatives and the president of the senate, and provide a copy of its report to the secretary of state.

C. Committee members are not eligible to receive compensation or reimbursement of expenses.

D. This section is repealed from and after ~~September 30, 2013~~ DECEMBER 31, 2015.

Sec. 7. Behavioral health services; accountability measures

A. Beginning on the last day of the month following the effective date of this act through December 31, 2015, the department of health services shall prepare and issue a quarterly financial and program accountability trends report to the governor, the chairpersons of the house of representatives health and reform and human services committees, the chairperson of the senate health and human services committee, the director of the joint legislative budget committee and the director of the governor's office of strategic planning and budgeting. The department shall provide a copy of each report to the secretary of state. The report shall use the following accountability factors by geographic service areas for children enrolled in the comprehensive medical and dental program:

1. The number and per cent of children in the comprehensive medical and dental program who have received behavioral health services, excluding the original assessment, through a regional behavioral health authority as of the end of each month.

2. The number of new behavioral health cases opened each month, the total number of cases that remain open from the current and previous months and the total number of cases that have been closed each month.

3. The type of behavioral health services the children received and the costs of each of those services.

4. The number of notices of action received and for what reason and the outcome of those notices.

5. The number of notice of appeals filed and for what reason, the outcomes of those appeals by the administrative law judge and the final decisions reached by the director of the Arizona health care cost containment system administration.

B. Beginning on the last day of the month following the effective date of this act through December 31, 2015, the department of economic security shall issue a quarterly financial and program accountability trend report to the governor, the chairpersons of the house of representatives health and reform and human services committees, the chairperson of the senate health and human services committee, the director of the joint legislative budget committee and the director of the governor's office of strategic planning and budgeting. The department shall submit a copy of each report to the secretary of state. Each report shall use the following accountability factors by county:

1. The number and per cent of children who are in foster care and who are title XIX eligible as of the end of that month.

2. The number of new title XIX eligible children opened in that month, the total number of children that remain open from the current and previous months and the total number of children who have been closed in that month.

3. The amount of nontitle XIX expenditures by service type used by the department to supplement the behavioral health services received through the regional behavioral health authorities.

Sec. 8. Department of health services; rules

A. The department of health services shall adopt rules regarding health care institutions that do the following:

1. Reduce monetary or regulatory costs on persons or individuals and streamline the regulation process.

2. Promote the use of deemed status for those behavioral health organizations that are accredited by recognized national organizations.

3. Facilitate licensure of integrated health programs that provide both behavioral and physical health services, and accommodate advances in clinical treatments for behavioral health.

B. For rules regarding assisted living facilities and nursing care institutions, the rules shall be adopted on April 30, 2014.

C. For all other rules requiring adoption pursuant to this section, rules shall be adopted on or before April 30, 2014.

1 Sec. 9. Exemption from rule making
2 For the purposes of this act, the department of health services is
3 exempt from the rule making requirements of title 41, chapter 6, Arizona
4 Revised Statutes, until April 30, 2014, except that the department shall
5 provide public notice and an opportunity for public comment on proposed rules
6 at least thirty days before a rule is adopted or amended.
7 Sec. 10. Retroactivity
8 Sections 8 and 9 of this act are effective retroactively to from and
9 after June 30, 2013.

APPROVED BY THE GOVERNOR JUNE 19, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 19, 2013.

Passed the House June 11, 2013,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 4, 2013,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Charmion Billington

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

S.B. 1375

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate June 13, 2013

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

13 day of June, 2013

at 4:25 o'clock P M.

Secretary to the Governor

Approved this 19th day of

June

at 11:13 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 19th day of June, 2013

at 2:05 o'clock P M.

Secretary of State

S.B. 1375