

House Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
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First Special Session
2013

CHAPTER 5

HOUSE BILL 2005

AN ACT

AMENDING SECTIONS 8-802, 13-3620, 22-117, 31-401, 41-191.03, 41-797, 41-1641, 41-1724 AND 41-1969.01, ARIZONA REVISED STATUTES; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION.

(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. Child protective services worker; fingerprint clearance
5 cards; powers and duties; alteration of files;
6 violation; classification

7 A. The department of economic security shall employ child protective
8 services workers. All persons who are employed as child protective services
9 workers shall have a valid fingerprint clearance card that is issued pursuant
10 to section 41-1758.07 or shall apply for a fingerprint clearance card within
11 seven working days of employment. A child protective services worker shall
12 certify on forms that are provided by the department of economic security and
13 that are notarized whether the worker is awaiting trial on or has ever been
14 convicted of any of the criminal offenses listed in section 41-1758.07,
15 subsections B and C in this state or similar offenses in another state or
16 jurisdiction.

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

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

20 1. Promote the safety and protection of children.

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

22 (a) Pursuant to section 8-817.

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

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

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

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

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

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

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

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

44 (b) Make a prompt and thorough investigation. ~~of~~ AN INVESTIGATION
45 MUST DETERMINE the nature, extent and cause of any condition that would tend

1 to support or refute the allegation that the child should be adjudicated
2 dependent and the name, age and condition of other children in the home
3 UNLESS THE REPORT CONTAINS AN ALLEGATION OF CRIMINAL CONDUCT THAT IS BEING
4 INVESTIGATED BY THE OFFICE OF CHILD WELFARE INVESTIGATIONS. ~~A criminal~~
5 ~~conduct allegation shall be investigated according to the protocols~~
6 ~~established pursuant to section 8-817 with the appropriate municipal or~~
7 ~~county law enforcement agency as provided in section 8-817.~~

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

10 6. SUBJECT TO SECTION 41-1969.01, take a child into temporary custody
11 as provided in section 8-821. Law enforcement officers shall cooperate with
12 the department to remove a child from the custody of the child's parents,
13 guardian or custodian when necessary.

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

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

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

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

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

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

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

43 D. A child shall not remain in temporary custody for a period
44 exceeding seventy-two hours, excluding Saturdays, Sundays and holidays,
45 unless a dependency petition is filed. If a petition is not filed and the

1 child is released to the child's parent, guardian or custodian, the worker
2 shall file a report of removal with the central registry within seventy-two
3 hours of the child's release. The report shall include:

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

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

8 E. The department shall provide child protective services workers who
9 investigate REPORTS OF allegations of abuse and neglect with training in
10 forensic interviewing and processes, ~~AND the protocols established pursuant~~
11 ~~to section 8-817 and relevant law enforcement procedures.~~ All child
12 protective services workers shall be trained in their duty to protect the
13 legal rights of children and families from the time of the initial contact
14 through treatment. The training shall include knowledge of a child's rights
15 as a victim of crime. The training for child protective services workers
16 shall also include instruction on the legal rights of parents and ~~the~~
17 ~~requirements for legal search and seizure by law enforcement officers.~~

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

23 G. THE DEPARTMENT OF ECONOMIC SECURITY SHALL DEVELOP AN ALTERNATIVE
24 RESPONSE FOR DESIGNATED REPORTS.

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

27 Sec. 2. Section 13-3620, Arizona Revised Statutes, is amended to read:

28 13-3620. Duty to report abuse, physical injury, neglect and
29 denial or deprivation of medical or surgical care or
30 nourishment of minors; medical records; exception;
31 violation; classification; definitions

32 A. Any person who reasonably believes that a minor is or has been the
33 victim of physical injury, abuse, child abuse, a reportable offense or
34 neglect that appears to have been inflicted on the minor by other than
35 accidental means or that is not explained by the available medical history as
36 being accidental in nature or who reasonably believes there has been a denial
37 or deprivation of necessary medical treatment or surgical care or nourishment
38 with the intent to cause or allow the death of an infant who is protected
39 under section 36-2281 shall immediately report or cause reports to be made of
40 this information to a peace officer or to child protective services in the
41 department of economic security, except if the report concerns a person who
42 does not have care, custody or control of the minor, the report shall be made
43 to a peace officer only. A member of the clergy, A christian science
44 practitioner or A priest who has received a confidential communication or a
45 confession in that person's role as a member of the clergy, A christian

1 science practitioner or a priest in the course of the discipline enjoined by
2 the church to which the member of the clergy, christian science practitioner
3 or priest belongs may withhold reporting of the communication or confession
4 if the member of the clergy, christian science practitioner or priest
5 determines that it is reasonable and necessary within the concepts of the
6 religion. This exemption applies only to the communication or confession and
7 not to personal observations the member of the clergy, christian science
8 practitioner or priest may otherwise make of the minor. For the purposes of
9 this subsection, "person" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 L. In any civil or criminal litigation in which a child's neglect,
12 dependency, physical injury, abuse, child abuse or abandonment is an issue, a
13 member of the clergy, a christian science practitioner or a priest shall not,
14 without his consent, be examined as a witness concerning any confession made
15 to him in his role as a member of the clergy, a christian science
16 practitioner or a priest in the course of the discipline enjoined by the
17 church to which he belongs. ~~Nothing in This subsection discharges~~ DOES NOT
18 DISCHARGE a member of the clergy, a christian science practitioner or a
19 priest from the duty to report pursuant to subsection A of this section.

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

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

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

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

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

40 P. For the purposes of this section:

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

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

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

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

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

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

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

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

7 Sec. 3. Section 22-117, Arizona Revised Statutes, is amended to read:
8 22-117. Payment of compensation and expenses

9 A. Justices of the peace shall be allowed by the board of supervisors,
10 as a county charge, office rent, stationery, telephone and lights.

11 B. In a county with a population of less than one million five hundred
12 thousand persons, the state shall pay 19.25 per cent of the compensation and
13 employee related expenditures of a justice of the peace, and the county shall
14 pay 80.75 per cent of the compensation and employee related expenditures of a
15 justice of the peace, except that the county shall pay the full amount of the
16 employer contribution of the state retirement system or plan or any county
17 health plan.

18 C. If a county is subject to subsection B of this section, the state
19 treasurer shall remit the compensation and employee related expenditures
20 payable by the state to the county treasurer, and the county shall disburse
21 the funds to the justice of the peace.

22 D. In a county with a population of one million five hundred thousand
23 persons or more, the county shall pay one hundred per cent of the
24 compensation and employee related expenditures of a justice of the peace.

25 E. If a county is subject to subsection D of this section, the
26 following apply:

27 1. ~~Beginning in fiscal year 2007-2008,~~ The county's contribution to
28 the hospitalization and medical care of the indigent sick and for the
29 administrative costs of implementing sections 36-2901.01 and 36-2901.04 shall
30 be reduced pursuant to section 11-292, subsection R, in an amount that is
31 equal to the difference between the total costs that the county paid pursuant
32 to subsection D of this section and the amount that the county would have
33 paid if the county were subject to subsection B of this section.

34 2. Pursuant to section 41-563, subsection D ~~and beginning in fiscal~~
35 ~~year 2007-2008,~~ the economic estimates commission shall increase the county's
36 base expenditure limit in an amount that is equal to the difference between
37 the total costs that the county paid pursuant to subsection D of this section
38 and the amount that the county would have paid if the county were subject to
39 subsection B of this section.

40 F. THE TOTAL AMOUNT THAT MAY BE EXPENDED IN ANY FISCAL YEAR BY THE
41 STATE TREASURER FOR JUSTICE OF THE PEACE COMPENSATION AND EMPLOYEE RELATED
42 EXPENDITURES REIMBURSEMENT SHALL NOT EXCEED THE AMOUNT APPROPRIATED IN THE
43 GENERAL APPROPRIATION ACT FOR THIS PURPOSE, TOGETHER WITH ADDITIONAL AMOUNTS
44 APPROPRIATED BY ANY SPECIAL LEGISLATIVE APPROPRIATION FOR JUSTICES OF THE
45 PEACE.

1 Sec. 4. Section 31-401, Arizona Revised Statutes, is amended to read:
2 31-401. Board of executive clemency; qualifications;
3 appointment; officers; quorum; meeting

4 A. The board of executive clemency is established consisting of five
5 members who are appointed by the governor pursuant to this subsection and
6 section 38-211.

7 B. The members of the board shall ~~serve on a full-time basis and the~~
8 ~~compensation of members shall be as determined pursuant to section 38-611 BE~~
9 COMPENSATED ON AN HOURLY BASIS AND ARE NOT ELIGIBLE FOR PAID LEAVE.
10 BEGINNING FROM AND AFTER DECEMBER 31, 2013, MEMBERS OF THE BOARD ARE ELIGIBLE
11 FOR ANY BENEFITS THAT ARE PROVIDED TO STATE EMPLOYEES PURSUANT TO SECTION
12 38-651. A MEMBER WHO IS ACTING AS THE EXECUTIVE DIRECTOR SHALL BE
13 COMPENSATED PURSUANT TO SUBSECTION K OF THIS SECTION. Each member shall be
14 appointed on the basis of broad professional or educational qualifications
15 and experience and shall have demonstrated an interest in the state's
16 correctional program. No more than two members from the same professional
17 discipline shall be members of the board at the same time.

18 C. Each member appointed to the board shall complete a four week
19 course relating to the duties and activities of the board. The course shall
20 be designed and administered by the chairman of the board and shall be
21 conducted by the office of the board of executive clemency and the office of
22 the attorney general. The course shall include training in all statutes that
23 pertain to the board and participation in a decision making workshop.

24 D. Members shall be appointed for a term of five years to expire on
25 the third Monday in January of the appropriate year.

26 E. A member of the board may be removed by the governor for cause.

27 F. The governor shall select a member of the board as chairman. The
28 chairman shall select other officers as are advisable. The term of the
29 chairman is two years, except that the chairman may be removed as chairman at
30 the pleasure of the governor. If a board member's term expires while the
31 member is serving as chairman, the chair shall be deemed vacant and a new
32 chairman shall be selected.

33 G. The board may adopt rules, not inconsistent with law, as it deems
34 proper for the conduct of its business. The board may from time to time
35 amend or change the rules and publish and distribute the rules as provided by
36 the administrative procedures act.

37 H. The board shall meet at least once a month at the state prison and
38 at other times or places as the board deems necessary.

39 I. The presence of three members of the board constitutes a quorum,
40 except that the chairman may designate that the presence of two members of
41 the board constitutes a quorum.

42 J. If two members of the board constitute a quorum pursuant to
43 subsection I of this section and the two members do not concur on the action
44 under consideration, the chairman of the board, if the chairman is not one of
45 the members who constituted the quorum and after reviewing the information

1 considered by the two members, shall cast the deciding vote. If the chairman
2 of the board is one of the two members constituting a quorum at a hearing
3 under subsection I of this section, and there is not concurrence on the
4 action under consideration, the action fails.

5 K. The board shall employ an executive director whose compensation
6 shall be determined pursuant to section 38-611. The chairman of the board
7 may act as the executive director.

8 Sec. 5. Section 41-191.03, Arizona Revised Statutes, is amended to
9 read:

10 41-191.03. Collection enforcement revolving fund; disposition
11 of monies

12 A. The collection enforcement revolving fund is established for the
13 purpose of collecting debts owed to the state. Monies in the fund are
14 subject to legislative appropriation. The attorney general shall administer
15 the fund.

16 B. The attorney general may expend from the collection enforcement
17 revolving fund such monies as are necessary for operating expenses incurred
18 by the department of law and the collection of debts owed to this state,
19 including reimbursing other accounts or departments within the office of the
20 attorney general from which monies or services for collection were provided.

21 C. Thirty-five per cent of all monies recovered by the attorney
22 general pursuant to section 41-191.04 shall be deposited, pursuant to
23 sections 35-146 and 35-147, in the collection enforcement revolving fund.

24 D. Sixty-five per cent of all monies recovered by the attorney general
25 pursuant to section 41-191.04 shall be distributed as follows:

26 1. Those monies that are directly attributable to a fund containing
27 monies that do not revert to the state general fund at the end of the fiscal
28 year shall be deposited, pursuant to sections 35-146 and 35-147, in that
29 fund.

30 2. All other monies shall be deposited, pursuant to sections 35-146
31 and 35-147, in the state general fund.

32 E. Monies in the collection enforcement revolving fund are exempt from
33 the lapsing provisions of section 35-190, except that monies remaining in the
34 fund at the end of each fiscal year in excess of ~~one~~ FIVE hundred thousand
35 dollars shall be distributed on a pro rata basis to the funds receiving
36 monies pursuant to subsection D of this section. Such distribution shall be
37 based on the percentage that the collections deposited in each fund bear to
38 the total amount deposited into the funds during the fiscal year.

39 F. Notwithstanding anything in subsections B through E of this
40 section, monies due and owing pursuant to section 12-116.01 and collected by
41 the attorney general shall be distributed as follows:

42 1. Twenty per cent of all monies recovered by the attorney general
43 pursuant to section 41-191.04 shall be deposited, pursuant to sections 35-146
44 and 35-147, in the collection enforcement revolving fund.

1 2. Eighty per cent of all monies recovered by the attorney general
2 pursuant to section 41-191.04 shall be deposited, pursuant to sections 35-146
3 and 35-147, in the criminal justice enhancement fund established by section
4 41-2401.

5 Sec. 6. Section 41-797, Arizona Revised Statutes, is amended to read:
6 41-797. Department of corrections building renewal fund

7 A. The department of corrections building renewal fund is established
8 consisting of monies deposited pursuant to section 31-230, section 41-1604,
9 subsection B, paragraph 3, and sections 41-1604.02, 41-1604.03 and 41-1624
10 AND SECTION 41-1641, SUBSECTION E. The director of the state department of
11 corrections shall administer the fund. Monies in the fund are subject to
12 legislative appropriation and are exempt from the provisions of section
13 35-190 relating to lapsing of appropriations.

14 B. The director of the state department of corrections shall use the
15 monies in the fund for building renewal projects that repair or rework
16 buildings and supporting infrastructure that are under the control of the
17 state department of corrections and that result in maintaining a building's
18 expected useful life. Monies in the fund may not be used for new building
19 additions, new infrastructure additions, landscaping and area beautification,
20 demolition and removal of a building and, except as provided in subsection C
21 of this section, routine preventive maintenance.

22 C. The director of the state department of corrections may use up to
23 eight per cent of the annual expenditures from the fund for routine
24 preventive maintenance.

25 Sec. 7. Section 41-1641, Arizona Revised Statutes, is amended to read:
26 41-1641. Corrections fund; uses; prior approval; exemption from
27 lapsing

28 A. The corrections fund is established and consists of monies received
29 from the distribution provided pursuant to section 42-3104.

30 B. Monies in the corrections fund may be expended by:

31 1. The director of the department of administration for major
32 maintenance, construction, lease, purchase, renovation or conversion of
33 corrections or state operated juvenile facilities subject to the prior
34 approval of the joint committee on capital review and the legislature.

35 2. The director of the state department of corrections for costs
36 incurred in the minor maintenance and the operations of corrections
37 facilities subject to the prior approval of the legislature.

38 3. The director of the department of juvenile corrections for costs
39 incurred in the minor maintenance and the operations of state operated
40 juvenile facilities subject to the prior approval of the legislature.

41 C. Notwithstanding any ~~provision of~~ law to the contrary and except as
42 provided in subsection B of this section:

43 1. The director of the state department of corrections shall enter
44 into an agreement with the director of the department of administration for
45 the expenditure of monies for the maintenance of corrections facilities.

1 2. The director of the department of juvenile corrections shall enter
2 into an agreement with the director of the department of administration for
3 the expenditure of monies for the maintenance of state operated juvenile
4 facilities.

5 D. Monies in the fund are exempt from the provisions of section 35-190
6 relating to lapsing of appropriations.

7 E. THE DIRECTOR SHALL TRANSFER TWO MILLION FIVE HUNDRED THOUSAND
8 DOLLARS FROM THE CORRECTIONS FUND ANNUALLY TO THE DEPARTMENT OF CORRECTIONS
9 BUILDING RENEWAL FUND ESTABLISHED BY SECTION 41-797.

10 Sec. 8. Section 41-1724, Arizona Revised Statutes, is amended to read:
11 41-1724. Gang and immigration intelligence team enforcement
12 mission fund; subaccount; use of monies; reporting
13 requirement

14 A. The gang and immigration intelligence team enforcement mission fund
15 is established consisting of monies deposited pursuant to section 11-1051 and
16 monies appropriated by the legislature. The department shall administer the
17 fund. Any monies distributed from the fund to a county sheriff shall go
18 directly to the county sheriff and are not subject to any form of approval by
19 the board of supervisors. Monies in the fund are subject to legislative
20 appropriation.

21 B. Monies in the fund shall be used for employer sanctions
22 enforcement, enforcing human smuggling and drug smuggling laws, gang and
23 strict immigration enforcement, county jail reimbursement costs relating to
24 illegal immigration and any other use previously authorized in an allocation
25 made by law for the gang and immigration intelligence team enforcement
26 mission.

27 C. Each year that monies are available in the fund AND AS SOON AS IS
28 PRACTICABLE AFTER JULY 1 OF EACH YEAR the first one million six hundred
29 thousand dollars shall be allocated to a county sheriff of a county with a
30 population of more than three million persons, then five hundred thousand
31 dollars shall be allocated to a county sheriff of a county with a population
32 of less than five hundred thousand persons but more than three hundred
33 thousand persons and any remaining monies shall be used for agreements or
34 contracts in accordance with subsection D of this section.

35 D. If the department uses monies from the fund for an agreement or
36 contract with a city, town, county or other entity to provide services for
37 the gang and immigration intelligence team enforcement mission, the city,
38 town, county or other entity shall provide not less than twenty-five per cent
39 of the cost of the services and the department shall provide not more than
40 seventy-five per cent of personal services and employee related expenditures
41 for each agreement or contract but may fund all capital related equipment.
42 This subsection does not apply to a county with a population of more than
43 three million persons or a county with a population of less than five hundred
44 thousand persons but more than three hundred thousand persons.

1 E. The gang and immigration intelligence team enforcement mission
2 border security and law enforcement subaccount is established consisting of
3 monies deposited pursuant to section 12-116.04 and monies appropriated by the
4 legislature. The department shall administer the subaccount. Any monies
5 distributed from the subaccount to a county sheriff shall go directly to the
6 county sheriff and are not subject to any form of approval by the board of
7 supervisors. Monies in the subaccount are subject to legislative
8 appropriation. All appropriated monies in the subaccount shall be
9 distributed each fiscal year to local entities and no monies may be retained
10 by the department for its own use. The monies in the subaccount shall be
11 used for law enforcement purposes related to border security, including
12 border personnel, AND FOR SAFETY EQUIPMENT THAT IS WORN OR USED BY A PEACE
13 OFFICER WHO IS EMPLOYED BY A COUNTY SHERIFF.

14 F. A law enforcement agency shall not receive any monies from the fund
15 unless the law enforcement agency certifies each fiscal year in writing to
16 the director of the department of public safety that the law enforcement
17 agency is complying with section 11-1051 to the fullest extent allowed by
18 law.

19 G. The department shall submit an expenditure plan to the joint
20 legislative budget committee for review before expending any monies not
21 identified in the department's previous expenditure plans. Within thirty
22 days after the last day of each calendar quarter, the department shall
23 provide a summary of quarterly and year-to-date expenditures and progress to
24 the joint legislative budget committee, including any prior year
25 appropriations that were nonlapsing.

26 Sec. 9. Section 41-1969.01, Arizona Revised Statutes, is amended to
27 read:

28 41-1969.01. Office of child welfare investigations; duties;
29 training; responsibilities; annual report

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

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

38 ~~B.~~ C. The office shall employ child welfare investigators who have
39 received training to understand law enforcement's role in cases of criminal
40 child abuse or neglect and in social services offered by the department.
41 ~~Child welfare investigators do not have the authority of peace officers. A~~
42 ~~child welfare investigator~~ THE OFFICE MAY EMPLOY RESEARCH ANALYSTS AND PEACE
43 OFFICERS TO OBTAIN AN ORIGINATING AGENCY IDENTIFICATION NUMBER TO HAVE DIRECT
44 ACCESS TO CRIMINAL HISTORY REPORT INFORMATION. EACH PERSON WHO IS HIRED BY

1 THE OFFICE is an employee of the department and shall comply with the
2 fingerprint requirements of section 41-1968.

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

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

8 2. Forensic interviewing and processes.

9 3. Child physical and sexual abuse investigation training.

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

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

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

15 7. Any other training as directed by the director.

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

17 1. Protect children.

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

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

28 (a) The child initiates contact with the investigator.

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

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

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

36 (a) Notify the appropriate municipal or county law enforcement agency
37 IF THAT AGENCY HAS NOT ALREADY BEEN NOTIFIED.

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

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

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

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

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

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

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

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

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

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

40 J. NOTWITHSTANDING ANY OTHER LAW, THE OFFICE OF CHILD WELFARE
41 INVESTIGATIONS IS NOT RESPONSIBLE FOR CONDUCTING THE CRIMINAL INVESTIGATION
42 OF AN OFFENSE THAT IS LISTED IN SECTION 8-801, PARAGRAPH 2.

43 Sec. 10. State department of corrections; budget structure

44 Notwithstanding any other law, the state department of corrections
45 shall report actual fiscal year 2012-2013, estimated fiscal year 2013-2014

1 and requested fiscal year 2014-2015 expenditures in the same structure and
2 detail as the prior fiscal year when the department submits the fiscal year
3 2014-2015 budget request pursuant to section 35-113, Arizona Revised
4 Statutes. The information submitted for each line item shall contain as much
5 detail as submitted in previous years for prior line items.

6 Sec. 11. State department of corrections; use of funds;
7 permission

8 Notwithstanding any other law, the state department of corrections is
9 permitted to use monies from either of the following funds for department
10 operating expenses in fiscal year 2013-2014:

11 1. The transition program fund established by section 31-284, Arizona
12 Revised Statutes.

13 2. The state department of corrections interagency service agreement
14 fund.

15 Sec. 12. Department of public safety; highway funds; limitation

16 Notwithstanding sections 28-6537 and 28-6993, Arizona Revised Statutes,
17 the statutory caps and transfers of highway user revenue fund monies and
18 state highway fund monies available to fund department of public safety
19 highway patrol costs are suspended for fiscal year 2013-2014.

20 Sec. 13. GIITEM border security and law enforcement subaccount;
21 expenditure plan; annual review

22 Notwithstanding section 41-1724, subsection G, Arizona Revised
23 Statutes, before the department of public safety spends any monies
24 appropriated in the general appropriations act for fiscal year 2013-2014 from
25 the gang and immigration intelligence team enforcement mission border
26 security and law enforcement subaccount established by section 41-1724,
27 Arizona Revised Statutes, as amended by this act, the department shall submit
28 the subaccount's entire expenditure plan to the joint legislative budget
29 committee for review.

30 Sec. 14. Nonsupplanting; suspension

31 Notwithstanding any other law, in fiscal year 2013-2014 the provisions
32 relating to supplanting of state monies contained in section 12-102.02,
33 subsection E, section 12-102.03, subsection D, section 12-135, subsection D,
34 section 12-135.01, subsection D, section 12-267, subsection D, section
35 12-268, subsection D and section 12-299.01, subsection C, Arizona Revised
36 Statutes, are suspended. The Arizona supreme court shall submit a report to
37 the joint legislative budget committee identifying any decrease in county
38 funding related to these suspended provisions, including the reasons for the
39 decrease.

40 Sec. 15. Arizona supreme court; county reimbursement

41 Notwithstanding section 13-4041, subsection H and section 21-428,
42 subsection B, Arizona Revised Statutes, the Arizona supreme court shall not
43 reimburse the counties more than the amount appropriated for that purpose in
44 the fiscal year 2013-2014 general appropriations act.

1 Sec. 16. Incarceration contracts; authorization; fiscal year
2 2014-2015

3 In fiscal year 2014-2015, as prescribed by Laws 2012, chapter 302,
4 section 27, the state department of corrections may award a contract for the
5 remaining male medium security beds under the request for proposals that was
6 issued under the authority of section 41-1609, Arizona Revised Statutes, only
7 if specific legislative authorization for the award is provided.

8 Sec. 17. Attorney general; state aid to indigent defense fund;
9 fiscal year 2013-2014

10 Notwithstanding section 11-588, Arizona Revised Statutes, in fiscal
11 year 2013-2014 the attorney general may use monies in the state aid to
12 indigent defense fund established by section 11-588, Arizona Revised
13 Statutes, for activities related to capital postconviction prosecution.

14 Sec. 18. Retroactivity

15 Section 31-401, Arizona Revised Statutes, as amended by this act, is
16 effective retroactively to from and after June 30, 2013.

APPROVED BY THE GOVERNOR JUNE 17, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 17, 2013.

Passed the House June 13, 2013

Passed the Senate June 13, 2013

by the following vote: 33 Ayes,

by the following vote: 17 Ayes,

27 Nays, 0 Not Voting

11 Nays, 2 Not Voting


Speaker of the House


President of the Senate


Chief Clerk of the House


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

13 day of June, 2013

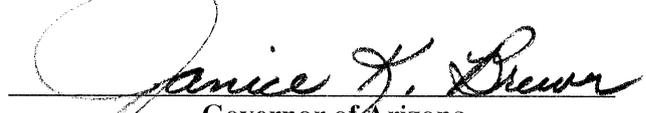
at 4:10 o'clock P M.


Secretary to the Governor

Approved this 17th day of

June

at 12:18 o'clock P M.


Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 17th day of June, 2013

at 4:23 o'clock P M.


Secretary of State

First Special Session
H.B. 2005