Conference Engrossed

FILED
MICHELE REAGAN
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CHAPTER 300

HOUSE BILL 2522

AN ACT

AMENDING SECTIONS 8-201, 8-455, 8-456, 8-471, 8-804.01 AND 8-807.01, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF CHILD SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 8-201, Arizona Revised Statutes, is amended to read:

8-201. Definitions

In this title, unless the context otherwise requires:

1. "Abandoned" means the failure of the parent to provide reasonable support and to maintain regular contact with the child, including providing normal supervision. Abandoned includes a judicial finding that a parent has made only minimal efforts to support and communicate with the child. Failure to maintain a normal parental relationship with the child without just cause for a period of six months constitutes prima facie evidence of abandonment.

2. "Abuse" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist and is caused by the acts or omissions of an individual who has the care, custody and control of a child. Abuse includes:

(a) Inflicting or allowing sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest pursuant to section 13-3608 or child prostitution pursuant to section 13-3212.

(b) Physical injury that results from permitting a child to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purpose of manufacturing a dangerous drug as defined in section 13-3401.

(c) Unreasonable confinement of a child.

3. "Adult" means a person who is eighteen years of age or older.

4. "Adult court" means the appropriate justice court, municipal court or criminal division of the superior court that has jurisdiction to hear proceedings concerning offenses committed by juveniles as provided in sections 8-327 and 13-501.

5. "Award" or "commit" means to assign legal custody.

6. "Child", "youth" or "juvenile" means an individual who is under the age of eighteen years.

7. "Complaint" means a written statement of the essential facts constituting a public offense that is any of the following:

(a) Made on an oath before a judge or commissioner of the superior court or an authorized juvenile hearing officer.

(b) Made pursuant to section 13-3903.

(c) Accompanied by an affidavit of a law enforcement officer or employee that swears on information and belief to the accuracy of the complaint pursuant to section 13-4261.

8. "Criminal conduct allegation" means an allegation of conduct by a parent, guardian or custodian of a child or an adult member of the victim's household that, if true, would constitute any of the following:

(a) A violation of section 13-3623 involving child abuse.

(b) A felony offense that constitutes domestic violence as defined in section 13-3601.

(c) A violation of section 13-1404 or 13-1406 involving a minor.

(d) A violation of section 13-1405, 13-1410 or 13-1417.

(e) Any other act of abuse that is classified as a felony.

(f) An offense that constitutes domestic violence as defined in section 13-3601 and that involves a minor who is a victim of or was in imminent danger during the domestic violence.

9. "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of the juvenile court.

10. "DCS REPORT" MEANS A COMMUNICATION RECEIVED BY THE CENTRALIZED INTAKE HOTLINE THAT ALLEGES CHILD ABUSE OR NEGLECT AND THAT MEETS THE CRITERIA FOR A REPORT AS PRESCRIBED IN SECTION 8-455.

~~10.~~ 11. "Delinquency hearing" means a proceeding in the juvenile court to determine whether a juvenile has committed a specific delinquent act as set forth in a petition.

~~11.~~ 12. "Delinquent act" means an act by a juvenile that if committed by an adult would be a criminal offense or a petty offense, a violation of any law of this state, or of another state if the act occurred in that state, or a law of the United States, or a violation of any law that can only be violated by a minor and that has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime. Delinquent act does not include an offense under section 13-501, subsection A or B if the offense is filed in adult court. Any juvenile who is prosecuted as an adult or who is remanded for prosecution as an adult shall not be adjudicated as a delinquent juvenile for the same offense.

~~12.~~ 13. "Delinquent juvenile" means a child who is adjudicated to have committed a delinquent act.

~~13.~~ 14. "Department" means the department of child safety.

~~14.~~ 15. "Dependent child":

(a) Means a child who is adjudicated to be:

(i) In need of proper and effective parental care and control and who has no parent or guardian, or one who has no parent or guardian willing to exercise or capable of exercising such care and control.

(ii) Destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care.

(iii) A child whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, a guardian or any other person having custody or care of the child.

(iv) Under eight years of age and who is found to have committed an act that would result in adjudication as a delinquent juvenile or incorrigible child if committed by an older juvenile or child.

(v) Incompetent or not restorable to competency and who is alleged to have committed a serious offense as defined in section 13-706.

(b) Does not include a child who in good faith is being furnished Christian Science treatment by a duly accredited practitioner if none of the circumstances described in subdivision (a) of this paragraph exists.

~~15.~~ 16. "Detention" means the temporary confinement of a juvenile who requires secure care in a physically restricting facility that is completely surrounded by a locked and physically secure barrier with restricted ingress and egress for the protection of the juvenile or the community pending court disposition or as a condition of probation.

~~16.~~ 17. "Director" means the director of the department.

~~17.~~ 18. "Health professional" has the same meaning prescribed in section 32-3201.

~~18.~~ 19. "Incorrigible child" means a child who:

(a) Is adjudicated as a child who refuses to obey the reasonable and proper orders or directions of a parent, guardian or custodian and who is beyond the control of that person.

(b) Is habitually truant from school as defined in section 15-803, subsection C.

(c) Is a runaway from the child's home or parent, guardian or custodian.

(d) Habitually behaves in such a manner as to injure or endanger the morals or health of self or others.

(e) Commits any act constituting an offense that can only be committed by a minor and that is not designated as a delinquent act.

(f) Fails to obey any lawful order of a court of competent jurisdiction given in a noncriminal action.

~~19.~~ 20. "Independent living program" includes a residential program with supervision of less than twenty-four hours a day.

~~20.~~ 21. "Juvenile court" means the juvenile division of the superior court when exercising its jurisdiction over children in any proceeding relating to delinquency, dependency or incorrigibility.

~~21.~~ 22. "Law enforcement officer" means a peace officer, sheriff, deputy sheriff, municipal police officer or constable.

~~22.~~ 23. "Medical director of a mental health agency" means a psychiatrist, or licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency, or a psychiatrist designated by

the governing body to act for the director. The term includes the superintendent of the state hospital.

~~23.~~ 24. "Mental health agency" means any private or public facility that is licensed by this state as a mental health treatment agency, a psychiatric hospital, a psychiatric unit of a general hospital or a residential treatment center for emotionally disturbed children and that uses secure settings or mechanical restraints.

~~24.~~ 25. "Neglect" or "neglected" means:

(a) The inability or unwillingness of a parent, guardian or custodian of a child to provide that child with supervision, food, clothing, shelter or medical care if that inability or unwillingness causes unreasonable risk of harm to the child's health or welfare, except if the inability of a parent, guardian or custodian to provide services to meet the needs of a child with a disability or chronic illness is solely the result of the unavailability of reasonable services.

(b) Permitting a child to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purposes of manufacturing a dangerous drug as defined in section 13-3401.

(c) A determination by a health professional that a newborn infant was exposed prenatally to a drug or substance listed in section 13-3401 and that this exposure was not the result of a medical treatment administered to the mother or the newborn infant by a health professional. This subdivision does not expand a health professional's duty to report neglect based on prenatal exposure to a drug or substance listed in section 13-3401 beyond the requirements prescribed pursuant to section 13-3620, subsection E. The determination by the health professional shall be based on one or more of the following:

(i) Clinical indicators in the prenatal period including maternal and newborn presentation.

(ii) History of substance use or abuse.

(iii) Medical history.

(iv) Results of a toxicology or other laboratory test on the mother or the newborn infant.

(d) Diagnosis by a health professional of an infant under one year of age with clinical findings consistent with fetal alcohol syndrome or fetal alcohol effects.

(e) Deliberate exposure of a child by a parent, guardian or custodian to sexual conduct as defined in section 13-3551 or to sexual contact, oral sexual contact or sexual intercourse as defined in section 13-1401, bestiality as prescribed in section 13-1411 or explicit sexual materials as defined in section 13-3507.

(f) Any of the following acts committed by the child's parent, guardian or custodian with reckless disregard as to whether the child is physically present:

(i) Sexual contact as defined in section 13-1401.
(ii) Oral sexual contact as defined in section 13-1401.
(iii) Sexual intercourse as defined in section 13-1401.
(iv) Bestiality as prescribed in section 13-1411.

~~25.~~ 26. "Newborn infant" means a child who is under thirty days of age.

~~26.~~ 27. "Petition" means a written statement of the essential facts that allege delinquency, incorrigibility or dependency.

~~27.~~ 28. "Prevention" means the creation of conditions, opportunities and experiences that encourage and develop healthy, self-sufficient children and that occur before the onset of problems.

~~28.~~ 29. "Protective supervision" means supervision that is ordered by the juvenile court of children who are found to be dependent or incorrigible.

~~29.~~ 30. "Referral" means a report that is submitted to the juvenile court and that alleges that a child is dependent or incorrigible or that a juvenile has committed a delinquent or criminal act.

~~30. "Report for investigation" means a report prepared pursuant to section 8-455, subsection D.~~

31. "Secure care" means confinement in a facility that is completely surrounded by a locked and physically secure barrier with restricted ingress and egress.

32. "Serious emotional injury" means an injury that is diagnosed by a medical doctor or a psychologist and that does any one or a combination of the following:

(a) Seriously impairs mental faculties.

(b) Causes serious anxiety, depression, withdrawal or social dysfunction behavior to the extent that the child suffers dysfunction that requires treatment.

(c) Is the result of sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, child prostitution pursuant to section 13-3212, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553 or incest pursuant to section 13-3608.

33. "Serious physical injury" means an injury that is diagnosed by a medical doctor and that does any one or a combination of the following:

(a) Creates a reasonable risk of death.

(b) Causes serious or permanent disfigurement.

(c) Causes significant physical pain.

(d) Causes serious impairment of health.

(e) Causes the loss or protracted impairment of an organ or limb.

(f) Is the result of sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, child prostitution pursuant to section 13-3212, commercial sexual exploitation of a

minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553 or incest pursuant to section 13-3608.

34. "Shelter care" means the temporary care of a child in any public or private facility or home that is licensed by this state and that offers a physically nonsecure environment that is characterized by the absence of physically restricting construction or hardware and that provides the child access to the surrounding community.

Sec. 2. Section 8-455, Arizona Revised Statutes, is amended to read:

8-455. Centralized intake hotline; purposes; report of possible crime; DCS report; risk assessment tools; access to information; public awareness; definition

A. The department shall operate and maintain a centralized intake hotline to protect children by receiving at all times communications concerning suspected abuse or neglect. If a person communicates suspected abuse or neglect to a department employee other than through the hotline, the employee shall refer the person or communication to the hotline.

B. The hotline is the first step in the safety assessment and investigation process and must be operated to:

1. Record communications made concerning suspected abuse or neglect.

2. Immediately take steps necessary to identify and locate prior communications and DCS reports ~~for investigation~~ related to the current communication using the department's data system and the central registry system of this state.

3. Quickly and efficiently provide information to a law enforcement agency or prepare a DCS report ~~for investigation~~ as required by this section.

4. Determine the proper initial priority level of investigation based on the ~~risk~~ REPORT SCREENING assessment and direct the DCS report ~~for investigation~~ to the appropriate part of the department based on this determination.

C. If a communication provides a reason to believe that a criminal offense has been committed AND THE COMMUNICATION DOES NOT MEET THE CRITERIA FOR A DCS REPORT, the hotline worker shall immediately provide the information to ~~both of the following:~~

~~1. The appropriate law enforcement agency pursuant to the protocols developed pursuant to section 8-817.~~

~~2. If a report for investigation is prepared as required in subsection D of this section and the suspected criminal offense is a criminal conduct allegation, the office of child welfare investigations~~ THE APPROPRIATE LAW ENFORCEMENT AGENCY.

D. A hotline worker shall prepare a DCS report ~~for investigation~~ if THE IDENTITY OR CURRENT LOCATION OF THE CHILD VICTIM, THE CHILD'S FAMILY OR THE PERSON SUSPECTED OF ABUSE OR NEGLECT IS KNOWN OR CAN BE REASONABLY ASCERTAINED AND all of the following are alleged:

1. The suspected conduct would constitute abuse or neglect.

2. The suspected victim of the conduct is under eighteen years of age.

3. The suspected victim of the conduct is a resident of or present in this state. ~~or any act involved in the suspected abuse or neglect occurred in this state.~~

4. The person suspected of committing the abuse or neglect is the parent, guardian or custodian of the victim or an adult member of the victim's household.

E. EXCEPT FOR CRIMINAL CONDUCT ALLEGATIONS, THE DEPARTMENT IS NOT REQUIRED TO PREPARE A DCS REPORT IF ALL OF THE FOLLOWING APPLY:

1. THE SUSPECTED CONDUCT OCCURRED MORE THAN THREE YEARS BEFORE THE COMMUNICATION TO THE HOTLINE.

2. THERE IS NO INFORMATION OR INDICATION THAT A CHILD IS CURRENTLY BEING ABUSED OR NEGLECTED.

~~E.~~ F. ~~All reports for investigation must be investigated~~ INVESTIGATIONS OF DCS REPORTS SHALL BE CONDUCTED as provided in section 8-456 EXCEPT FOR INVESTIGATIONS CONTAINING ALLEGATIONS OF CRIMINAL CONDUCT, WHICH SHALL BE CONDUCTED AS PROVIDED IN SECTION 8-471.

~~F. If otherwise required by:~~

~~1. Subsection C of this section, information must be provided to the appropriate law enforcement agency even if the identity or location of the person suspected of abuse or neglect or the victim of the abuse or neglect is not known.~~

~~2. Subsection D of this section, a report for investigation must be prepared even if the identity or location of the person suspected of abuse or neglect or the victim of the abuse or neglect is not known.~~

G. The department shall develop and train hotline workers to use uniform risk assessment tools to determine:

1. Whether the suspected conduct constitutes abuse or neglect and the severity of the suspected abuse or neglect.

2. Whether the suspected abuse or neglect involves criminal conduct, even if the communication does not result in the preparation of a DCS report ~~for investigation~~.

3. The appropriate investigative track for referral based on the risk to the child's safety.

H. A DCS report ~~for investigation~~ must include, if available, all of the following:

1. The name, address or contact information for the person making the communication.

2. The name, address and other location or contact information for the parent, guardian or custodian of the child or other adult member of the child's household who is suspected of committing the abuse or neglect.

3. The name, address and other location or contact information for the child.

4. The nature and extent of the indications of the child's abuse or neglect, including any indication of physical injury.

5. Any information regarding possible prior abuse or neglect, including reference to any communication or DCS report ~~for investigation~~ involving the child, the child's siblings or the person suspected of COMMITTING THE abuse or neglect.

I. Information gathered through the hotline must be made available to an employee of the department in order to perform the employee's duties. The office of child welfare investigations and the inspections bureau must have immediate access to all records of the hotline.

J. A representative of the:

1. Office of child welfare investigations must be embedded in the hotline to carry out the purposes of section 8-471.

2. Inspections bureau must be embedded in the hotline to carry out the purposes of section 8-458.

K. The department shall publicize the availability and the purposes of the centralized intake hotline.

L. For the purposes of this section~~,~~ :

1. "Centralized intake hotline" means the system developed pursuant to this section regardless of the communication methods or technologies used to implement the system.

2. "CRIMINAL OFFENSE" MEANS AN ALLEGATION OF CONDUCT AGAINST A CHILD BY A PERSON OTHER THAN A PARENT, GUARDIAN OR CUSTODIAN OF THE CHILD VICTIM OR ANOTHER ADULT MEMBER OF THE CHILD'S HOUSEHOLD THAT, IF TRUE, WOULD CONSTITUTE A FELONY OFFENSE.

Sec. 3. Section 8-456, Arizona Revised Statutes, is amended to read:

8-456. <u>Investigative function; training; criminal offenses; definition</u>

A. The department shall train all investigators in forensic interviewing and processes and the protocols established pursuant to section 8-817. The training must include:

1. Uniform safety and risk assessment tools to determine whether the conduct constitutes abuse or neglect and the severity of the abuse or neglect.

2. The duty to protect the legal and due process rights of children and families from the time of the initial contact through case closure.

3. Instruction on a child's rights as a crime victim and instruction on the legal rights of parents.

4. A checklist or other mechanism to assist the investigator in giving consideration to the relevant factors in each investigation.

B. The office of child welfare investigations shall investigate DCS reports ~~for investigation~~ that contain a criminal conduct allegation as provided in sections 8-471 and 8-817.

C. After receiving a DCS report ~~for investigation~~ from the centralized intake hotline pursuant to section 8-455, an investigator shall do all of the following:

1. Make a prompt and thorough investigation. An investigation must evaluate and determine the nature, extent and cause of any condition created by the parents, guardian or custodian or an adult member of the victim's household that would tend to support or refute the allegation that the child is a victim of abuse or neglect and determine the name, age and condition of other children in the home. If an investigator has sufficient information to determine that the child is not a victim of abuse or neglect, the investigator may close the investigation.

2. If required by section 8-821 and subject to section 8-471, take a child into temporary custody. 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.

D. After an investigation, an investigator shall:

1. Determine whether any child is in need of child safety services consistent with the evaluation and determination made pursuant to subsection C of this section.

2. If appropriate pursuant to section 8-846, offer to the family of any child who is found to be a child in need of child safety services those services that are designed to correct unresolved problems that would indicate a reason to adjudicate the child dependent.

3. Submit a written report of the investigator's investigation to:

(a) The department's case management information system within a reasonable amount of time that does not exceed forty-five days after receipt of the DCS report ~~for investigation~~ 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 under this title, a copy of the report and any additional investigative or other related reports must 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.

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

5. 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 in the department to preclude violations of a court order in the provision of any services.

E. 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.

F. If an investigation indicates a reason to believe that a criminal offense has been committed, the investigator shall immediately provide the information to the appropriate law enforcement agency and the office of child welfare investigations, unless the information was previously provided pursuant to section 8-455.

G. For the purposes of this section, "investigator" means an employee of the department who investigates allegations of abuse or neglect pursuant to a DCS report ~~for investigation~~.

Sec. 4. Section 8-471, Arizona Revised Statutes, is amended to read:

8-471. Office of child welfare investigations; training; responsibilities; annual report

A. 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 other parts of the department and law enforcement, establishing task forces for the investigation of criminal conduct and other duties as may be assigned by the director.

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. 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, is subject to title 41, chapter 4, article 4 and shall comply with the fingerprint requirements of section 8-802.

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 training on responding to reports of child abuse.
2. Forensic interviewing and processes.
3. Child physical and sexual abuse investigation.
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. Impact and intervention practices related to adverse childhood experiences, culturally and linguistically appropriate service delivery, domestic violence, family engagement, communication with special populations and trauma informed responses.
8. Any other training as directed by the director.

E. A child welfare investigator shall:

1. Protect children.

2. Assess, respond to or investigate all criminal conduct allegations, which shall be a priority, but not otherwise exercise the authority of a peace officer.

3. 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 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 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. 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 child safety 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.

9. Have access to all records and information of the department necessary to carry out this section.

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, the child shall be released to the child's parent, guardian or custodian.

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.

H. The office of child welfare investigations shall submit a report by August 15 each year to the governor, the speaker of the house of representatives, the president of the senate and the secretary of state that includes the following information for the most recently completed fiscal year:

1. The number of DCS reports ~~for investigation~~ that involve criminal conduct allegations.

2. The number of joint investigations conducted pursuant to section 8-817.

3. For each case in which a joint investigation did not occur pursuant to section 8-817, the reasons why the joint investigation did not occur.

I. All records gathered or created by the department during an investigation conducted under this section are confidential and shall be protected and released as prescribed in sections 8-807 and 8-807.01, except the department shall not release records if the department determines that the release of these records may compromise an ongoing investigation.

J. Notwithstanding any other law, the office of child welfare investigations is not responsible for conducting the criminal investigation of a criminal conduct allegation.

Sec. 5. Section 8-804.01, Arizona Revised Statutes, is amended to read:

8-804.01. Maintenance of reports; records

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

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

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

2. To determine placement for a child ~~that~~, INCLUDING DETERMINING WHAT is the least restrictive setting.

3. TO LICENSE FOSTER HOMES, TO CERTIFY ADOPTIVE HOMES OR TO USE IN THE DEPARTMENT'S EMPLOYMENT DECISIONS.

~~3.~~ 4. To determine the type and level of services and treatment provided to the child and the child's family.

~~4.~~ 5. To assist in a criminal investigation or prosecution of child abuse or neglect.

~~5.~~ 6. To meet state and federal reporting requirements.

C. Notwithstanding section 8-807 and except as otherwise provided by law, reports and related records maintained pursuant to subsection A of this section shall not be used for purposes of employment or background checks, except for background checks conducted pursuant to section 8-804, subsection B. Only information contained in the central registry may be used to conduct background checks pursuant to section 8-804, subsection B.

D. If probable cause exists that abuse or neglect of a child has occurred, the department shall record this finding. The department may make this finding independent of whether a specific person is identified as responsible for the abuse or neglect.

E. If the department is unable to locate a child who is the subject of a report of abuse or neglect, the department shall record this finding separate from its other findings.

F. Subject to the requirements of sections 8-804 and 8-811, whenever possible, the department shall determine if a specific person is responsible for the abuse or neglect of a child.

Sec. 6. Section 8-807.01, Arizona Revised Statutes, is amended to read:

8-807.01. <u>Incidents involving fatality or near fatality; definition</u>

A. The department shall promptly provide DCS information to the public regarding a case of child abuse, abandonment or neglect that has resulted in a fatality or near fatality as follows:

1. The department shall provide preliminary information including at a minimum:

(a) In the case of a fatality, the name of the child who has died.

(b) The age, gender, county and general location of the residence of the child who has suffered a fatality or a near fatality.

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

(d) The name, age and city, town or general location of the residence of the alleged perpetrator, if available, unless the disclosure would violate the privacy of victims of crime pursuant to article II, section 2.1, Constitution of Arizona.

(e) Whether there have been reports, or any current or past cases, of abuse, abandonment or neglect involving the child or the alleged perpetrator.

(f) Actions taken by the department in response to the fatality or near fatality of the child.

(g) A detailed synopsis of prior reports or cases of abuse, abandonment or neglect involving the child or the alleged perpetrator and of

the actions taken or determinations made by the department in response to these reports or cases.

2. On request by any person, the department shall promptly provide additional DCS information to the requestor in a case of child abuse, abandonment or neglect that has resulted in a fatality or a near fatality. Before releasing additional DCS 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 or prosecution. After consulting with the county attorney, pursuant to paragraph 3 of this subsection, the department shall produce to the requestor as much additional DCS information as promptly as possible about a case of child abuse, abandonment or neglect that resulted in a fatality or near fatality.

3. On request, the department shall continue to provide DCS information promptly to the public about a fatality or near fatality unless:

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

(b) The release would violate section 8-807, subsection A or L or the privacy of victims of crime pursuant to article II, section 2.1, Constitution of Arizona.

4. If any person believes that the county attorney has failed to demonstrate that release would cause a specific, material harm to a criminal investigation or prosecution, that person may file an action in superior court pursuant to title 39, chapter 1, article 2 and section 8-807, subsection J and request the court to review the DCS information in camera to determine if disclosure should be ordered.

5. Within ninety days after the date of the DCS report ~~for investigation~~ for a case involving a fatality or a near fatality, the department shall provide to the public a summary report that:

(a) May include any actions taken by the department in response to the case, any changes in policies or practices that have been made to address any issues raised in the review of the case and any recommendations for further changes in policies, practices, rules or statutes to address those issues.

(b) Shall include the information prescribed in subsection B of this section if the child was residing in the child's home and in subsection C of this section if the child was placed in an out-of-home placement.

B. If the summary report prescribed in subsection A, paragraph 5 of this section involves a child who was residing in the child's home, the summary report shall contain a summary of all of the following:

1. Whether services pursuant to this chapter were being provided to the child, a member of the child's family or the person suspected of the abuse or neglect at the time of the incident and the date of the last contact

before the incident between the entity providing the services and the person receiving the services.

2. Whether the child, a member of the child's family or the person suspected of the abuse or neglect was the subject of a DCS report ~~for investigation~~ at the time of the incident.

3. All involvement of the child's parents and of the person suspected of the abuse or neglect in a situation for which a DCS report ~~for investigation~~ was made or in services provided pursuant to this chapter in the five years preceding the incident involving a fatality or a near fatality.

4. Any investigation pursuant to a DCS report ~~for investigation~~ concerning the child, a member of the child's family or the person suspected of the abuse or neglect or services provided to the child or the child's family since the date of the incident involving a fatality or a near fatality.

C. If the summary report prescribed in subsection A, paragraph 5 of this section involves a child who was in out-of-home placement, the summary report shall include the name of any agency the licensee was licensed by, the licensing history of the out-of-home placement, including the type of license held by the operator of the placement, the period for which the placement has been licensed and a summary of all violations by the licensee and any other actions by the licensee or an employee of the licensee that constitute a substantial failure to protect and promote the health, safety and welfare of a child.

D. For the purposes of this section, "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.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2016.

Passed the House February 24, 20 16

by the following vote: 49 Ayes,

10 Nays, 1 Not Voting

Speaker of the House

☐ Pro Tempore

Chief Clerk of the House

Passed the Senate April 12, 20 16

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

Secretary to the Governor

Approved this _____day of

at _____o'clock _____M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

Secretary of State

H.B. 2522

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 6, 20 16

by the following vote: 50 Ayes,

5 Nays, 5 Not Voting

Speaker of the House

☐ Pro Tempore

Jim Drake

Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 7, 20 16

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Susan Reeves

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

7 day of May, 20 16

at 3:33 o'clock A. M.

Valerie Hanna

Secretary to the Governor

Approved this 17th day of

May

at 1:13 o'clock P. M.

Doug A. Ducey

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 17th day of May, 20 16

at 4:35 o'clock P M.

Michele Reagan

Secretary of State

H.B. 2522