

Senate Engrossed House Bill

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

**FILED**  
**MICHELE REAGAN**  
**SECRETARY OF STATE**

CHAPTER 61

# **HOUSE BILL 2059**

AN ACT

AMENDING SECTION 8-807, ARIZONA REVISED STATUTES; RELATING TO CHILD SAFETY INFORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-807, Arizona Revised Statutes, is amended to  
3 read:

4 8-807. DCS information; public record; use; confidentiality;  
5 violation; classification; definition

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

10 B. The department, or a person who receives DCS information pursuant  
11 to this subsection, shall provide DCS information to a federal agency, a  
12 state agency, a tribal agency, a county or municipal agency, a law  
13 enforcement agency, a prosecutor, an attorney or a guardian ad litem  
14 representing a child victim of crime pursuant to article II, section 2.1,  
15 Constitution of Arizona, a school, a community service provider, a contract  
16 service provider or any other person that is providing services pursuant to  
17 this article or article 9, 10, 11, 12, 13 or 14 of this chapter:

18 1. To meet its duties to provide for the safety and permanency of a  
19 child, provide services to a parent, guardian or custodian or provide  
20 services to family members to strengthen the family pursuant to this article  
21 or article 9, 10, 11, 12, 13 or 14 of this chapter.

22 2. To enforce or prosecute any violation involving child abuse or  
23 neglect or to assert the rights of the child as a victim of a crime.

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

26 4. To help investigate and prosecute any violation involving domestic  
27 violence as defined in section 13-3601 or violent sexual assault as  
28 prescribed in section 13-1423.

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

33 D. The department shall disclose DCS information to a domestic  
34 relations, family or conciliation court if the DCS information is necessary  
35 to promote the safety and well-being of children. The court shall notify the  
36 parties that it has received the DCS information.

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

39 F. The department may provide:

40 1. DCS information to confirm, clarify, correct or supplement  
41 information concerning an allegation or actual instance of child abuse or  
42 neglect that has been made public by a source or sources outside the  
43 department.

1           2. DCS information to a person who is conducting bona fide research,  
2 the results of which might provide DCS information that is beneficial in  
3 improving the department.

4           3. Access to DCS information to the parent, guardian or custodian of a  
5 child if the DCS information is reasonably necessary to promote the safety,  
6 permanency and well-being of the child.

7           4. DCS information if an employee of the department has a reasonable  
8 belief that exigent circumstances exist. For the purposes of this paragraph,  
9 "exigent circumstances" means a condition or situation in which the death of  
10 or serious injury to a child will likely result in the near future without  
11 immediate intervention.

12           G. The department shall disclose DCS information to a county medical  
13 examiner or an alternate medical examiner directing an investigation into the  
14 circumstances surrounding a death pursuant to section 11-593.

15           H. Access to DCS information in the central registry shall be provided  
16 as prescribed in section 8-804.

17           I. To provide oversight of the department, the department shall  
18 provide access to DCS information to the following persons, if the DCS  
19 information is reasonably necessary for the person to perform the person's  
20 official duties:

21           1. Federal or state auditors.

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

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

32           4. A legislator who requests DCS information in the regular course of  
33 the legislator's duties. A legislator may discuss this information with  
34 another legislator if the other legislator has signed the form prescribed in  
35 subdivision (d) of this paragraph in regard to the specific file that will be  
36 discussed. This information shall not be further disclosed unless a court  
37 has ordered the disclosure of this information, the information has been  
38 disclosed in a public or court record, or the information has been disclosed  
39 in the course of a public meeting or court proceeding. To request a file  
40 pursuant to this paragraph:

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

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

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

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

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

13 6. A human rights committee established pursuant to section 41-3801.

14 7. THE GOVERNOR WHO SHALL NOT DISCLOSE ANY INFORMATION UNLESS A COURT  
15 HAS ORDERED THE DISCLOSURE OF THE INFORMATION, THE INFORMATION HAS BEEN  
16 DISCLOSED IN A PUBLIC OR COURT RECORD OR THE INFORMATION HAS BEEN DISCLOSED  
17 IN THE COURSE OF A PUBLIC MEETING OR COURT PROCEEDING.

18 J. A person who has been denied DCS information regarding a fatality  
19 or near fatality caused by abuse, abandonment or neglect pursuant to  
20 subsection L of this section or section 8-807.01 may bring a special action  
21 pursuant to section 39-121.02 in the superior court to order the department  
22 to release that DCS information. A legislator has standing to bring or to  
23 join a special action regarding the release of DCS information or to  
24 challenge the redaction of released DCS information. The plaintiff shall  
25 provide notice to the county attorney, who has standing and may participate  
26 in the action. The court shall review the requested records in camera and  
27 order disclosure consistent with subsections A and L of this section and  
28 section 8-807.01. The court shall take reasonable steps to prevent any  
29 clearly unwarranted invasions of privacy and protect the privacy and dignity  
30 of victims of crime pursuant to article II, section 2.1, subsection C,  
31 Constitution of Arizona.

32 K. The department or a person who is not specifically authorized by  
33 this section to obtain DCS information may petition a judge of the superior  
34 court to order the department to release DCS information. The plaintiff  
35 shall provide notice to the county attorney and to the attorney and guardian  
36 ad litem for the child, who have standing and may participate in the action.  
37 The court shall review the requested records in camera and shall balance the  
38 rights of the parties who are entitled to confidentiality pursuant to this  
39 section against the rights of the parties who are seeking the release of the  
40 DCS information. The court may release otherwise confidential DCS  
41 information only if the rights of the parties seeking the DCS information and  
42 any benefits from releasing the DCS information outweigh the rights of the  
43 parties who are entitled to confidentiality and any harm that may result from  
44 releasing the DCS information. The court shall take reasonable steps to  
45 prevent any clearly unwarranted invasions of privacy and protect the privacy

1 and dignity of victims of crime pursuant to article II, section 2.1,  
2 subsection C, Constitution of Arizona.

3 L. Except as provided in subsection M of this section, before it  
4 releases records under this section or section 8-807.01, the department shall  
5 take whatever precautions it determines are reasonably necessary to protect  
6 the identity and safety of a person who reports child abuse or neglect and to  
7 protect any other person if the department believes that disclosure of the  
8 DCS information would be likely to endanger the life or safety of any person.  
9 The department is not required by this section to disclose DCS information if  
10 the department demonstrates that disclosure would cause a specific, material  
11 harm to a department investigation. The department is not required by this  
12 section to disclose DCS information if, in consultation with the county  
13 attorney, the county attorney demonstrates that disclosure would cause a  
14 specific, material harm to a criminal investigation or prosecution.

15 M. A person who is the subject of an unfounded report or complaint  
16 made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this  
17 chapter and who believes that the report or complaint was made in bad faith  
18 or with malicious intent may petition a judge of the superior court to order  
19 the department to release the DCS information. The petition shall  
20 specifically set forth reasons supporting the person's belief that the report  
21 or complaint was made in bad faith or with malicious intent. The court shall  
22 review the DCS information in camera and the person filing the petition shall  
23 be allowed to present evidence in support of the petition. If the court  
24 determines that there is a reasonable question of fact as to whether the  
25 report or complaint was made in bad faith or with malicious intent and that  
26 disclosure of the identity of the person making the report or complaint would  
27 not be likely to endanger the life or safety of the person making the report  
28 or complaint, it shall provide a copy of the DCS information to the person  
29 filing the petition and the original DCS information is subject to discovery  
30 in a subsequent civil action regarding the making of the report or complaint.

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

35 O. The department shall provide DCS information on request to a  
36 prospective adoptive parent, foster parent or guardian, if the information  
37 concerns a child the prospective adoptive parent, foster parent or guardian  
38 seeks to adopt or provide care for.

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

42 Q. A person may authorize the release of DCS information about the  
43 person but may not waive the confidentiality of DCS information concerning  
44 any other person.

1 R. The department may provide a summary of the outcome of a department  
2 investigation to the person who reported the suspected child abuse or  
3 neglect.

4 S. The department shall adopt rules to facilitate the accessibility of  
5 DCS information.

6 T. The department or a person who receives DCS information pursuant to  
7 subsection B of this section shall provide DCS information to law enforcement  
8 and a court to protect the safety of any employee of the department or the  
9 office of the attorney general or to protect a family member of such an  
10 employee.

11 U. A person who receives DCS information shall maintain the  
12 confidentiality of the information and shall not further disclose the  
13 information unless the disclosure is authorized by law or a court order.

14 V. The department may charge a fee for copying costs required to  
15 prepare DCS information for release pursuant to this section or section  
16 8-807.01.

17 W. A person who violates this section is guilty of a class 2  
18 misdemeanor.

19 X. For the purposes of this section, "DCS information" includes all  
20 information the department gathers during the course of an investigation  
21 conducted under this chapter from the time a file is opened and until it is  
22 closed. DCS information does not include information that is contained in  
23 child welfare agency licensing records.

APPROVED BY THE GOVERNOR MARCH 24, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2016.

Passed the House February 4, 20 16

Passed the Senate March 17, 20 16

by the following vote: 56 Ayes,

by the following vote: 29 Ayes,

0 Nays, 4 Not Voting

0 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  Pro Tempore  
Chief Clerk of the House

[Signature]  
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. 2059

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

March 23, 2016,

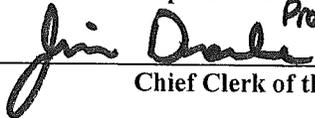
by the following vote: 57 Ayes,

0 Nays, 3 Not Voting



Speaker of the House

*Pro Tempore*



Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

23rd day of March, 2016,

at 1:11 o'clock P. M.

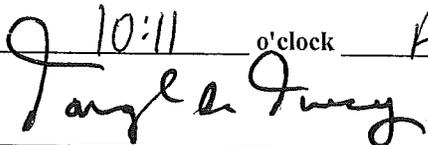


Secretary to the Governor

Approved this 24th day of

March, 2016,

at 10:11 o'clock A M.



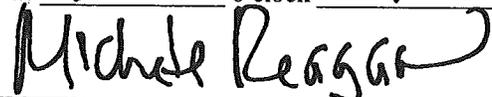
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24 day of March, 2016,

at 2:06 o'clock P M.



Secretary of State

H.B. 2059



STATE OF ARIZONA  
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY  
GOVERNOR

EXECUTIVE OFFICE

March 24, 2016

The Honorable Michele Reagan  
Secretary of State  
1700 W. Washington, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

Dear Secretary Reagan:

Today, I signed H.B. 2059 (DCS information; governor access). This legislation recognizes my authority under Article 5, Section 4 of the Arizona Constitution to obtain information and documents from State agencies and offices. I thank the bill's sponsor, Representative Kelly Townsend, for her ongoing commitment to child safety.

Sincerely,

Douglas A. Ducey  
Governor  
State of Arizona

cc: The Honorable David Gowan  
The Honorable Andy Biggs  
The Honorable Kelly Townsend