

House Engrossed Senate Bill

**FILED**

**MICHELE REAGAN  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-third Legislature  
First Regular Session  
2017

CHAPTER 72

**SENATE BILL 1380**

AN ACT

AMENDING SECTIONS 8-134, 8-506, 8-804 AND 8-811, ARIZONA REVISED STATUTES;  
RELATING TO THE DEPARTMENT OF CHILD SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-134, Arizona Revised Statutes, is amended to  
3 read:

4 8-134. Confidential intermediary

5 A. Any of the following persons may use the services of a  
6 confidential intermediary who is listed with the court:

7 1. The adoptive parents of an adoptee who is at least eighteen  
8 years of age or, if the adoptive parents are deceased, the adoptee's  
9 guardian.

10 2. An adoptee if the adoptee is at least eighteen years of age.

11 3. If an adoptee is deceased, the adoptee's spouse if the spouse is  
12 the legal parent or guardian of any child of the adoptee.

13 4. If an adoptee is deceased, any progeny of the adoptee who is at  
14 least eighteen years of age.

15 5. Either of the birth parents of an adoptee.

16 ~~6. If the birth parent of an adoptee is deceased, the parent of the~~  
17 ~~birth parent.~~

18 6. THE BIOLOGICAL GRANDPARENT OF THE ADOPTEE OR OTHER MEMBERS OF  
19 THE ADOPTEE'S EXTENDED BIOLOGICAL FAMILY.

20 7. A biological sibling of the adoptee if the sibling is at least  
21 eighteen years of age.

22 B. An adoption agency licensed by this state, the division or an  
23 individual who meets the requirements adopted pursuant to subsections ~~F~~ I  
24 and ~~G~~ J of this section may serve as a confidential intermediary.

25 C. Notwithstanding sections 8-120 and 8-121, a confidential  
26 intermediary may inspect documents compiled pursuant to this article.  
27 Documents include the court records, division records, agency records and  
28 maternity home records. The confidential intermediary shall keep  
29 confidential all information obtained during the course of the  
30 investigation. The intermediary shall use confidential information only  
31 to arrange a contact or share information between the person who initiates  
32 the search and the person who is the subject of the search. A  
33 confidential intermediary shall review the court record before making any  
34 contact with an adoptee to determine if an affidavit has been filed  
35 pursuant to subsection E of this section. Except as provided pursuant to  
36 subsection A, paragraphs 1, 2, 4 and 7 and subsection G of this section, a  
37 confidential intermediary shall not contact persons under twenty-one years  
38 of age.

39 D. The confidential intermediary shall obtain written consent from  
40 the person who initiated the search and the person who is the subject of  
41 the search before arranging for the sharing of identifying information or  
42 a contact between them. If the confidential intermediary discovers the  
43 subject of the search is deceased or that the identity of the birth father  
44 was unknown to or not revealed by the birth mother, the confidential  
45 intermediary shall share this information with the person initiating the

1 search. If the confidential intermediary, after a diligent effort, is  
2 unable to locate the subject of the search to obtain written consent to  
3 share information, the confidential intermediary shall share this  
4 information with the person initiating the search and prepare and place  
5 with the compiled documents a written report describing search efforts.  
6 If the person who initiated the search petitions the court to release  
7 identifying information, the court shall review the report prepared by the  
8 confidential intermediary and shall decide if the information may be  
9 released and in what manner the information may be released if the court  
10 determines there is good cause.

11 E. An adoptive parent who has not informed an adoptee that the  
12 adoptee was adopted may file an affidavit so stating with the court where  
13 the adoption took place. The affidavit may be withdrawn at any time by  
14 the adoptive parent. If an affidavit is a part of the court record, the  
15 confidential intermediary shall not make contact with the adoptee unless  
16 the adoptive parent withdraws the affidavit and grants permission in  
17 writing or the adoptee has filed an affidavit stating that the adoptee  
18 knows about the adoption and wishes to make contact with the birth parent.

19 F. A birth parent who has not informed the parent's biological  
20 offspring of the existence of the adoptee may file an affidavit so stating  
21 with the court where the adoption took place. The affidavit may be  
22 withdrawn at any time by the birth parent. If an affidavit is a part of  
23 the court record, the confidential intermediary shall not make contact  
24 with the biological sibling unless the birth parent withdraws the  
25 affidavit and grants permission in writing or the biological sibling has  
26 filed an affidavit stating that the biological sibling knows about the  
27 adoptee and wishes to make contact with the adoptee.

28 G. On receipt of a written statement from a physician or a  
29 registered nurse practitioner that explains in detail how a health  
30 condition may seriously affect the health of the adoptee or a direct  
31 descendant of the adoptee, the court shall order the confidential  
32 intermediary program to appoint a confidential intermediary. The  
33 confidential intermediary shall make a diligent effort to notify an  
34 adoptee who has attained eighteen years of age, an adoptive parent or  
35 guardian of an adoptee who has not attained eighteen years of age or a  
36 direct descendant of a deceased adoptee that the nonidentifying  
37 information is available and shall be provided on written request.

38 H. On receipt of a written statement from a physician or a  
39 registered nurse practitioner that explains in detail why a serious health  
40 condition of the adoptee or a direct descendant of the adoptee should be  
41 communicated to the birth parent or biological sibling to enable the birth  
42 parent or biological sibling to make an informed medical decision, the  
43 court shall order the confidential intermediary program to appoint a  
44 confidential intermediary. The confidential intermediary shall make a

1 diligent effort to notify those individuals that the nonidentifying  
2 information is available and shall be provided on written request.

3 I. The Arizona supreme court shall administer the confidential  
4 intermediary program. The court shall adopt rules and procedures  
5 necessary to implement the program, including qualifications, required  
6 fees, minimum standards for certification, training and standards of  
7 conduct of confidential intermediaries, and shall establish the fees that  
8 may be charged by a confidential intermediary.

9 J. A person shall not act as a confidential intermediary unless the  
10 person possesses a confidential intermediary certificate issued by the  
11 supreme court. In order to be certified as a confidential intermediary a  
12 person shall meet and maintain the minimum standards prescribed by this  
13 section and the rules adopted by the supreme court.

14 K. In carrying out the provisions of this section the supreme court  
15 shall require applicants for a confidential intermediary certificate to  
16 furnish fingerprints and the supreme court shall obtain criminal history  
17 record information pursuant to section 41-1750. The applicant for  
18 certification shall pay a fee to the department of public safety to  
19 reimburse the department of public safety for the cost of obtaining the  
20 applicant's criminal history record information required by this section.  
21 The fee shall not exceed the actual cost of obtaining the applicant's  
22 criminal history record information.

23 L. The actual and reasonable cost to the agency, division or court  
24 of providing information pursuant to the confidential intermediary program  
25 shall be paid by the person requesting the services of a confidential  
26 intermediary. If the juvenile court of a county is supplying the  
27 information, the actual and reasonable costs shall be paid to the clerk of  
28 the court of that county who shall transmit the monies to the county  
29 treasurer of that county for deposit in the juvenile probation services  
30 fund to be utilized by the juvenile court of that county for reimbursing  
31 the court for costs associated with providing information pursuant to the  
32 confidential intermediary program. If the division is supplying the  
33 information, the actual and reasonable costs shall be paid to the  
34 division. If an agency is supplying the information, the actual and  
35 reasonable costs shall be paid to the agency.

36 Sec. 2. Section 8-506, Arizona Revised Statutes, is amended to  
37 read:

38 8-506. Denial, suspension or revocation of license; foster  
39 home; hearing; exception

40 A. The division may deny the application or suspend or revoke the  
41 license of any foster home for wilful violation of any provision of this  
42 article or failure to maintain the standards of the care prescribed by the  
43 division. Written notice of the grounds of the suspension or the proposed  
44 denial or revocation shall be given to the applicant or holder of the  
45 license. A copy of the written notice of the suspension or the proposed

1 denial or revocation shall be forwarded to the agency that recommended the  
2 foster home for licensing. Within twenty-five days after the mailing date  
3 of the written notice of proposed denial, revocation or suspension, the  
4 applicant or holder may request a hearing in accordance with the rules of  
5 the division. If the hearing is requested it shall be held within ten  
6 days ~~of~~ AFTER the request, at which time the applicant or holder shall  
7 have the right to present testimony and confront witnesses.

8 B. A DENIAL, SUSPENSION OR REVOCATION OF A FOSTER HOME LICENSE DUE  
9 TO A FAILURE TO OBTAIN OR MAINTAIN A LEVEL I FINGERPRINT CLEARANCE CARD AS  
10 REQUIRED BY SECTION 8-509 IS NOT AN APPEALABLE AGENCY ACTION.

11 Sec. 3. Section 8-804, Arizona Revised Statutes, is amended to  
12 read:

13 8-804. Central registry; notification

14 A. The department shall maintain a central registry of reports of  
15 child abuse and neglect that are substantiated and the outcome of the  
16 investigation of these reports made under this article. A finding made by  
17 a court pursuant to section 8-844, subsection C that a child is dependent  
18 based on an allegation of abuse or neglect shall be recorded as a  
19 substantiated finding of abuse or neglect. The department shall  
20 incorporate duplicate reports on the same incident in the original report  
21 and shall not classify duplicate reports as new reports.

22 B. The department shall conduct central registry background checks  
23 and shall use the information contained in the central registry only for  
24 the following purposes:

25 1. As a factor to determine qualifications for foster home  
26 licensing, adoptive parent certification, INDIVIDUALS WHO APPLY FOR CHILD  
27 WELFARE AGENCY LICENSING, child care home certification, registration of  
28 unregulated child care homes with the child care resource and referral  
29 system, and home and community based services certification for services  
30 to children or vulnerable adults.

31 2. As a factor to determine qualifications for persons who are  
32 employed or who are applying for employment with this state in positions  
33 that provide direct service to children or vulnerable adults.

34 3. AS A FACTOR TO DETERMINE QUALIFICATIONS FOR INDIVIDUALS WHO ARE  
35 EMPLOYED OR WHO ARE APPLYING FOR EMPLOYMENT WITH A CHILD WELFARE AGENCY IN  
36 POSITIONS THAT PROVIDE DIRECT SERVICE TO CHILDREN OR VULNERABLE ADULTS.

37 ~~3.~~ 4. As a factor to determine qualifications for positions that  
38 provide direct service to children or vulnerable adults for:

39 (a) Any person who applies for a contract with this state and that  
40 person's employees.

41 (b) All employees of a contractor.

42 (c) A subcontractor of a contractor and the subcontractor's  
43 employees.

44 (d) Prospective employees of the contractor or subcontractor at the  
45 request of the prospective employer.

1           ~~4.~~ 5. Beginning August 1, 2013, to provide information to  
2 licensees that do not contract with this state regarding persons who are  
3 employed or seeking employment to provide direct services to children  
4 pursuant to title 36, chapter 7.1.

5           ~~5.~~ 6. To identify and review reports concerning individual  
6 children and families, in order to facilitate the assessment of safety and  
7 risk.

8           ~~6.~~ 7. To determine the nature and scope of child abuse and neglect  
9 in this state and to provide statewide statistical and demographic  
10 information concerning trends in child abuse and neglect.

11           ~~7.~~ 8. To allow comparisons of this state's statistical data with  
12 national data.

13           ~~8.~~ 9. To comply with section 8-804.01, subsection B.

14           C. Beginning August 1, 2013, licensees that do not contract with  
15 the state and that employ persons who provide direct services to children  
16 pursuant to title 36, chapter 7.1 must submit to the department of child  
17 safety in a manner prescribed by the department of child safety  
18 information necessary to conduct central registry background checks. The  
19 department of health services shall verify whether licensees, pursuant to  
20 title 36, chapter 7.1, have complied with the requirements of this  
21 subsection and any rules adopted by the department of health services to  
22 implement this subsection.

23           D. If the department of economic security received a report before  
24 September 1, 1999 and determined that the report was substantiated, the  
25 department of child safety shall maintain the report in the central  
26 registry until eighteen years from the child victim's date of birth.

27           E. If the department of economic security or the department of  
28 child safety received a report on or after September 1, 1999 and  
29 determined that the report was substantiated, the department of child  
30 safety shall maintain the report in the central registry for a maximum of  
31 twenty-five years after the date of the report. If the department of  
32 child safety maintains reports in the central registry for less than  
33 twenty-five years, the department shall adopt rules to designate the  
34 length of time it must maintain those reports in the central registry.

35           F. The department shall annually purge reports and investigative  
36 outcomes received pursuant to the time frames prescribed in subsections D  
37 and E of this section.

38           G. Any person who was the subject of a department investigation may  
39 request confirmation that the department has purged information about the  
40 person pursuant to subsection F of this section. On receipt of this  
41 request, the department shall provide the person with written confirmation  
42 that the department has no record containing identifying information about  
43 that person.

1 H. The department shall notify a person, contractor or licensee  
2 identified in subsection B, paragraph ~~3~~ 4, subdivisions (a), (b) and (c)  
3 and subsection B, paragraph ~~4~~ 5 of this section who is disqualified  
4 because of a central registry check conducted pursuant to subsection B of  
5 this section that the person may apply to the board of fingerprinting for  
6 a central registry exception pursuant to section 41-619.57.

7 I. Before being employed in a position that provides direct  
8 services to children or vulnerable adults pursuant to subsection B,  
9 paragraphs ~~3~~ 4 and ~~4~~ 5 or subsection C of this section, employees shall  
10 certify, under penalty of perjury, on forms that are provided by the  
11 department whether an allegation of abuse or neglect was made against them  
12 and was substantiated. The forms are confidential. If this certification  
13 does not indicate a current investigation or a substantiated report of  
14 abuse or neglect, the employee may provide direct services pending the  
15 findings of the central registry check.

16 J. A person who is granted a central registry exception pursuant to  
17 section 41-619.57 is not entitled to a contract, employment, licensure,  
18 certification or other benefit because the person has been granted a  
19 central registry exception.

20 K. An agency of this state that conducts central registry  
21 background checks as a factor to determine qualifications for positions  
22 that provide direct services to children or vulnerable adults shall  
23 publish a list of disqualifying acts of substantiated abuse or neglect.

24 L. An agency of this state that conducts central registry  
25 background checks may provide information contained in the central  
26 registry on all reports of child abuse and neglect that are substantiated  
27 and the outcomes of the investigations of the reports to carry out the  
28 provisions of this section. Identifying information regarding any person  
29 other than the perpetrator may not be released. Information received  
30 pursuant to this section may not be further disseminated unless authorized  
31 by law or court order.

32 Sec. 4. Section 8-811, Arizona Revised Statutes, is amended to  
33 read:

34 8-811. Hearing process; definitions

35 A. The department shall notify a person who is alleged to have  
36 abused or neglected a child that the department intends to substantiate  
37 the allegation in the central registry pursuant to section 8-804 and of  
38 that person's right:

- 39 1. To receive a copy of the report containing the allegation.
- 40 2. To a hearing before the entry into the central registry.

41 B. The department shall ~~send~~ PROVIDE the notice prescribed in  
42 subsection A of this section by first class mail OR BY PERSONAL SERVICE no  
43 more than fourteen days after completion of the investigation.

1 C. A request for a hearing on the proposed finding must be received  
2 by the department within twenty days after the mailing OR PERSONAL SERVICE  
3 of the notice by the department.

4 D. The department shall not disclose any information related to the  
5 investigation of the allegation except as provided in sections 8-456,  
6 8-807, 8-807.01 and 13-3620.

7 E. If a request for a hearing is made pursuant to subsection C of  
8 this section, the department shall conduct a review before the hearing.  
9 The department shall provide an opportunity for the accused person to  
10 provide written or verbal information to support the position that the  
11 department should not substantiate the allegation. If the department  
12 determines that there is no probable cause that the accused person engaged  
13 in the alleged conduct, the department shall amend the information or  
14 finding in the report and shall notify the person and a hearing shall not  
15 be held.

16 F. Notwithstanding section 41-1092.03, the notification prescribed  
17 in subsection A of this section shall also state that if the department  
18 does not amend the information or finding in the report as prescribed in  
19 subsection E of this section within sixty days after it receives the  
20 request for a hearing the person has a right to a hearing unless:

21 1. The person is a party in a pending civil, criminal or  
22 administrative proceeding in which the allegations of abuse or neglect are  
23 at issue.

24 2. The person is a party in a pending juvenile proceeding in which  
25 the allegations of abuse or neglect are at issue.

26 3. A court or administrative law judge has made findings as to the  
27 alleged abuse or neglect.

28 4. A court has found that a child is dependent or has terminated a  
29 parent's rights based on an allegation of abuse or neglect.

30 G. If the court or administrative law judge in a pending proceeding  
31 described in subsection F, paragraph 1 or 2 of this section does not make  
32 a finding of abuse or neglect and the matter is no longer pending in that  
33 forum, the person has a right to a hearing pursuant to subsection F of  
34 this section.

35 H. If the court or administrative law judge in a proceeding  
36 described in subsection F of this section has made a finding of abuse or  
37 neglect, the finding shall be entered into the central registry as a  
38 substantiated report.

39 I. If the department does not amend the information or finding in  
40 the report as prescribed in subsection E of this section, the department  
41 shall notify the office of administrative hearings of the request for a  
42 hearing no later than five days after completion of the review. The  
43 department shall forward all records, reports and other relevant  
44 information with the request for hearing within ten days. The department

1 shall redact the identity of the reporting source before transmitting the  
2 information to the office of administrative hearings.

3 J. The office of administrative hearings shall hold a hearing  
4 pursuant to title 41, chapter 6, article 10, with the following  
5 exceptions:

6 1. A child who is the victim of or a witness to abuse or neglect is  
7 not required to testify at the hearing.

8 2. A child's hearsay statement is admissible if the time, content  
9 and circumstances of that statement are sufficiently indicative of its  
10 reliability.

11 3. The identity of the reporting source of the abuse or neglect  
12 shall not be disclosed without the permission of the reporting source.

13 4. The reporting source is not required to testify.

14 5. A written statement from the reporting source may be admitted if  
15 the time, content and circumstances of that statement are sufficiently  
16 indicative of its reliability.

17 6. If the person requesting the hearing fails to appear, the  
18 hearing shall be vacated and a substantiated finding of abuse or neglect  
19 shall be entered. On good cause shown, the hearing may be rescheduled if  
20 the request is made within fifteen calendar days after the date of the  
21 notice vacating the hearing for failure to appear.

22 K. On completion of the presentation of evidence, the  
23 administrative law judge shall determine if probable cause exists to  
24 sustain the department's finding that the parent, guardian or custodian  
25 abused or neglected the child. If the administrative law judge determines  
26 that probable cause exists to sustain the department's finding of abuse or  
27 neglect, the sustained finding shall be entered into the central registry  
28 as a substantiated report. If the administrative law judge determines  
29 that probable cause does not exist to sustain the department's finding,  
30 the administrative law judge shall order the department to amend the  
31 information or finding in the report.

32 L. When the department is requested to verify pursuant to section  
33 8-807, if the central registry contains a substantiated report about a  
34 specific person, the department shall determine if the report was taken  
35 after January 1, 1998. If the report was taken after January 1, 1998, the  
36 department shall notify the requestor of the substantiated finding. If  
37 the report was taken before January 1, 1998, the department shall notify  
38 the person of the person's right to request an administrative hearing.  
39 The department shall not send this notification if the person was a party  
40 in a civil, criminal or administrative proceeding in which the allegations  
41 of abuse or neglect were at issue. The provisions of this section shall  
42 apply to the person's appeal.

43 M. The department shall provide the parent, guardian or custodian  
44 who is the subject of the investigation and the person who reported the  
45 suspected child abuse or neglect if that person is the child's parent,

1 guardian or custodian with a copy of the outcome of the investigation at  
2 one of the following times:

3 1. If the report is unsubstantiated.

4 2. If probable cause exists that abuse or neglect has occurred but  
5 a specific person is not identified as having abused or neglected the  
6 child.

7 3. After the time to request a hearing has lapsed pursuant to  
8 subsection C of this section without the department receiving a request  
9 for a hearing.

10 4. After a final administrative decision has been made pursuant to  
11 section 41-1092.08.

12 N. For the purposes of this section:

13 1. "Amend the finding" means to change the finding from  
14 substantiated to unsubstantiated.

15 2. "Amend the information" means to change information identifying  
16 the accused of having abused or neglected a child.

**APPROVED BY THE GOVERNOR MARCH 24, 2017.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2017.**

Passed the House March 20, 20 17,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Rob Duggan  
Speaker of the House  
*Pro Tempore*

Jim Drake  
Chief Clerk of the House

Passed the Senate February 20, 20 17,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

Steve Montano  
President of the Senate

Susan Owens  
Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this~~

~~\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary to the Governor~~

~~Approved this \_\_\_\_\_ day of~~

~~\_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Governor of Arizona~~

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State~~

~~this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary of State~~

S.B. 1380

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate March 21, 2017

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

*Alan B. Gold*  
President of the Senate

*Susan Aronson*  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

21<sup>st</sup> day of March, 2017

at 2:47 o'clock P. M.

*[Signature]*  
Secretary to the Governor

Approved this 24<sup>th</sup> day of

March, 2017

at 2:52 o'clock P. M.

*Doug Ducey*  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 24 day of March, 2017

at 5:05 o'clock P. M.

*Michelle Reagan*  
Secretary of State