

COMMITTEE ON HEALTH AND HUMAN SERVICES

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2622

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 8-801, Arizona Revised Statutes, is amended to
3 read:

4 8-801. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Child protective services worker" or "worker" means a person who
7 has been selected by and trained under the requirements prescribed by the
8 department and who assists in carrying out the provisions of this article.

9 2. "Criminal conduct allegation" means an allegation of conduct by a
10 parent, guardian or custodian of a child that, if true, would constitute any
11 of the following:

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

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

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

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

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

18 3. "In-home intervention" means a program of services provided
19 pursuant to article 7 of this chapter while the child is still in the custody
20 of the parent, guardian or custodian.

21 4. "Protective services" means a specialized child welfare program
22 that is administered by the department as provided in this chapter and that
23 investigates allegations of and seeks to prevent, intervene in and treat
24 abuse and neglect, to promote the well-being of the child in a permanent home
25 and to coordinate services to strengthen the family.

26 5. "RELATIVE" HAS THE SAME MEANING PRESCRIBED IN SECTION 8-501.

1 Sec. 2. Section 8-823, Arizona Revised Statutes, is amended to read:

2 8-823. Notice of taking into temporary custody

3 A. If a child is taken into temporary custody pursuant to this
4 article, the interested person, peace officer or child protective services
5 worker taking the child into custody shall provide written notice within six
6 hours to the parent or guardian of the child, unless:

7 1. The parent or guardian is present when the child is taken into
8 custody, then written and verbal notice shall be provided immediately.

9 2. The residence of the parent or guardian is outside this state and
10 notice cannot be provided within six hours, then written notice shall be
11 provided within twenty-four hours.

12 3. The residence of the parent or guardian is not ascertainable, then
13 reasonable efforts shall be made to locate and notify the parent or guardian
14 of the child as soon as possible.

15 B. The written notice shall contain a signature line for the parent or
16 guardian to acknowledge receipt of both written and verbal notices. **THE**
17 **NOTICE TO THE CHILD'S PARENT SHALL DIRECT THE PARENT TO INFORM THE DEPARTMENT**
18 **AND THE COURT OF THE NAMES AND CURRENT ADDRESSES OF THE CHILD'S RELATIVES WHO**
19 **MIGHT HAVE AN INTEREST IN THE CHILD'S PLACEMENT. THE PARENT MUST INFORM THE**
20 **DEPARTMENT AS SOON AS POSSIBLE BUT NOT MORE THAN THIRTY DAYS AFTER THE CHILD**
21 **IS REMOVED OF THE NAMES AND CURRENT ADDRESSES OF THE CHILD'S RELATIVES SO**
22 **THAT THEY MAY BE CONSIDERED FOR PLACEMENT.** The written and verbal notices
23 shall contain the name of the person and agency taking the child into
24 custody, the location from which the child was taken and all of the following
25 information:

26 1. Specific reasons as to why the child is being removed. The notice
27 shall list the specific factors that caused the determination of imminent
28 danger.

29 2. Services that are available to the parent or guardian, including a
30 statement of parental rights and information on how to contact the
31 ombudsman-citizen's aide office and an explanation of the services that
32 office offers.

1 3. The date and time of the taking into custody.

2 4. The name and telephone number of the agency responsible for the
3 child.

4 5. A statement of the reasons for temporary custody of the child.

5 6. A statement that the child must be returned within seventy-two
6 hours excluding Saturdays, Sundays and holidays unless a dependency petition
7 is filed and a statement that a child in temporary custody for examination
8 pursuant to section 8-821, subsection B, paragraph 2 must be returned within
9 twelve hours unless abuse or neglect is diagnosed.

10 7. One of the following:

11 (a) If a dependency petition has not been filed or if the information
12 prescribed in subdivision (b) is not available, a statement that if a
13 dependency petition is filed, the parent or guardian will be provided a
14 written notice no later than twenty-four hours after the petition is filed
15 that contains the information prescribed in subdivision (b).

16 (b) In all other cases, the date, time and place of the preliminary
17 protective hearing to be held pursuant to section 8-824 and the requirements
18 of subsection D of this section.

19 8. A statement of the right of the parent or guardian to counsel and
20 that counsel will be appointed pursuant to section 8-221 through the juvenile
21 court if a dependency petition is filed and the person is indigent.

22 9. Information regarding the ability of the person about whom the
23 report was made to provide a verbal, telephonic or written response to the
24 allegations. A verbal response shall be included in the written report of
25 the investigation. A written response, including any documentation, shall be
26 included in the case file. The response shall be provided to the removal
27 review team if the response is made before the team considers the removal.

28 10. A statement that the hearing may result in further proceedings to
29 terminate parental rights.

30 C. The protective services worker shall provide the parent or guardian
31 with the notice even if the parent or guardian refuses to sign the
32 acknowledgment.

1 D. Immediately before the time of the preliminary protective hearing,
2 the persons described in section 8-824, subsection B shall meet and attempt
3 to reach an agreement about placement of the child, services to be provided
4 to the child, parent or guardian and visitation of the child. The parties
5 shall meet with their counsel, if any, before this meeting. Consideration
6 shall be given to the availability of reasonable services to the parent or
7 guardian and the child's health and safety shall be a paramount concern. The
8 persons described in section 8-824, subsection C may attend the meeting to
9 reach an agreement.

10 E. If a dependency petition is filed by the department, the child
11 protective services worker is responsible for delivering the notice of the
12 preliminary protective hearing prescribed in subsection B, paragraph 7 of
13 this section to the parent or guardian. In all other cases, the person who
14 files the dependency petition is responsible for delivery of this notice to
15 the parent or guardian. If the location of the parent or guardian is
16 unknown, the person who is responsible for serving this notice shall make
17 reasonable efforts to locate and notify the parent or guardian.

18 Sec. 3. Section 8-824, Arizona Revised Statutes, is amended to read:

19 8-824. Preliminary protective hearing; probable cause;
20 appointment of counsel

21 A. The court shall hold a preliminary protective hearing to review the
22 taking into temporary custody of a child pursuant to section 8-821 not fewer
23 than five days nor more than seven days after the child is taken into
24 custody, excluding Saturdays, Sundays and holidays. If clearly necessary to
25 prevent abuse or neglect, to preserve the rights of a party or for other good
26 cause shown, the court may grant one continuance that does not exceed five
27 days.

28 B. The following persons shall be present at the preliminary
29 protective hearing:

30 1. The child's parents or guardian, unless they cannot be located or
31 they fail to appear in response to the notice.

32 2. Counsel for the parents if one has been requested or retained.

1 3. The child's guardian ad litem or attorney.

2 4. The protective services worker.

3 5. Counsel for the protective services worker.

4 C. If the court finds that it is in the best interests of the child,
5 the court may allow the following to be present at the preliminary protective
6 hearing:

7 1. The child.

8 2. Any relative or other interested person with whom the child is or
9 might be placed as described in section 8-845, subsection A.

10 3. Witnesses called by the parties.

11 4. An advocate or interested person as requested by the parent or
12 guardian.

13 5. Other persons who have knowledge of or an interest in the welfare
14 of the child.

15 D. At the hearing, the court shall advise the parent or guardian of
16 the following rights:

17 1. The right to counsel, including appointed counsel if the parent or
18 guardian is indigent.

19 2. The right to cross-examine all witnesses who are called to testify
20 against the parent or guardian.

21 3. The right to trial by court on the allegations in the petition.

22 4. The right to use the process of the court to compel the attendance
23 of witnesses.

24 E. At the hearing, the court:

25 1. Shall receive a report of any agreement reached pursuant to section
26 8-823, subsection D. The report may be made orally.

27 2. Shall provide an opportunity for the child's parent or guardian, if
28 present, and any other person who has relevant knowledge, to provide relevant
29 testimony.

30 3. May limit testimony and evidence that is beyond the scope of the
31 removal of the child, the child's need for continued protection, placement,
32 visitation and services to be provided to the child and family.

1 4. May take into consideration as a mitigating factor the
2 participation of the parent or guardian in the healthy families program
3 established by section 8-701.

4 5. Shall take into consideration as a mitigating factor the
5 availability of reasonable services to the parent or guardian to prevent or
6 eliminate the need for removal of the child and the effort of the parent or
7 guardian to obtain and participate in these services.

8 6. Shall inform the child's parent or guardian that the hearing may
9 result in further proceedings to terminate parental rights.

10 7. Shall inform the parent that substantially neglecting or wilfully
11 refusing to remedy the circumstances that cause the child to be in an
12 out-of-home placement, including refusing to participate in reunification
13 services, is grounds for termination of parental rights to a child.

14 8. Shall give paramount consideration to the health and safety of the
15 child.

16 9. Shall review evidence that the department is attempting to identify
17 and assess placement of the child with a grandparent or another member of the
18 child's extended family including a person who has a significant relationship
19 with the child.

20 10. SHALL INFORM THE PARENT THAT THE PARENT, WITHIN THIRTY DAYS AFTER
21 THE CHILD IS REMOVED, SHALL PROVIDE THE DEPARTMENT AND THE COURT WITH THE
22 NAMES AND CURRENT ADDRESSES OF THE CHILD'S RELATIVES AND, IF KNOWN, INDICATE
23 WHETHER OR NOT THE RELATIVE HAS AN INTEREST IN PLACEMENT.

24 ~~10.~~ 11. Shall inform a foster parent, preadoptive parent or a member
25 of the child's extended family with whom the department has placed the child
26 of the right to be heard in any proceeding to be held with respect to the
27 child.

28 F. The petitioner has the burden of presenting evidence as to whether
29 there is probable cause to believe that continued temporary custody is
30 clearly necessary to prevent abuse or neglect pending the hearing on the
31 dependency petition.

1 G. If the child is in the temporary custody of the department, the
2 department shall submit not later than the day before the hearing a written
3 report to the court and the parties that states:

4 1. The reasons the child was removed from the parent's or guardian's
5 custody.

6 2. Any services that have been provided to the child or the child's
7 parent or guardian to prevent removal.

8 3. The need, if any, for continued temporary custody.

9 4. The types of service needed to facilitate the return of the child
10 to the custody of the child's parents or guardian.

11 5. If the child is not placed with a grandparent, whether the child
12 has any relatives or other interested parties as described in section 8-845,
13 subsection A who may be able and willing to take temporary custody.

14 6. Any services that are requested by the parent or guardian but that
15 are not provided and the reasons the services were not provided.

16 7. Any efforts made to place siblings together, and if they are not
17 placed together, the reasons why.

18 8. Any efforts made to facilitate communications among siblings.

19 9. A proposal for visitation and the results of any visitation that
20 has occurred since the child was removed.

21 10. A proposed case plan for services to the family.

22 H. The parent or guardian shall state whether the parent or guardian
23 admits or denies the allegations in the petition filed pursuant to section
24 8-841. If the parent or guardian admits or does not contest the allegations
25 in the petition, the court shall determine that the parent or guardian
26 understands the rights described in subsection D of this section and that the
27 parent or guardian knowingly, intelligently and voluntarily waives these
28 rights.

29 I. At the hearing, if the child is not returned to the parent or
30 guardian, the court shall:

31 1. Enter orders regarding the placement of the child pending the
32 determination of the dependency petition and visitation, if any.

1 2. If a relative is identified as a possible placement for the child,
2 notify the relative of the right to be heard in any proceeding to be held
3 with respect to the child.

4 3. Determine if the tasks and services set forth in the case plan are
5 reasonable and necessary to carry out the case plan."

6 Amend title to conform

and, as so amended, it do pass

STEVE COURT
Vice-Chairman

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3/4/09
H:jmb

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03/02/2009
09:56 AM
C: jcs