

PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1291

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 13-3620, Arizona Revised Statutes, is amended to
3 read:

4 13-3620. Duty to report abuse, physical injury, neglect and denial or
5 deprivation of medical or surgical care or nourishment of minors; medical
6 records; exception; violation; classification; definitions

7 A. Any person who reasonably believes that a minor is or has been the
8 victim of physical injury, abuse, child abuse, a reportable offense or
9 neglect that appears to have been inflicted on the minor by other than
10 accidental means or that is not explained by the available medical history as
11 being accidental in nature or who reasonably believes there has been a denial
12 or deprivation of necessary medical treatment or surgical care or nourishment
13 with the intent to cause or allow the death of an infant who is protected
14 under section 36-2281 shall immediately report or cause reports to be made of
15 this information to a peace officer or to child protective services in the
16 department of economic security, except if the report concerns a person who
17 does not have care, custody or control of the minor, the report shall be made
18 to a peace officer only. A member of the clergy, A christian science
19 practitioner or A priest who has received a confidential communication or a
20 confession in that person's role as a member of the clergy, A christian
21 science practitioner or a priest in the course of the discipline enjoined by
22 the church to which the member of the clergy, christian science practitioner
23 or priest belongs may withhold reporting of the communication or confession
24 if the member of the clergy, christian science practitioner or priest
25 determines that it is reasonable and necessary within the concepts of the
26 religion. This exemption applies only to the communication or confession and
27 not to personal observations the member of the clergy, christian science

1 practitioner or priest may otherwise make of the minor. For the purposes of
2 this subsection, "person" means:

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

7 2. Any peace officer, member of the clergy, priest or christian
8 science practitioner.

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

10 4. School personnel or domestic violence victim ~~advocate~~ **ADVOCATES** who
11 develop the reasonable belief in the course of their employment.

12 5. Any other person who has responsibility for the care or treatment
13 of the minor.

14 B. A report is not required under this section **EITHER:**

15 1. For conduct prescribed by sections 13-1404 and 13-1405 if the
16 conduct involves only minors who are fourteen, fifteen, sixteen or seventeen
17 years of age and there is nothing to indicate that the conduct is other than
18 consensual.

19 2. **IF A MINOR IS OF ELEMENTARY SCHOOL AGE, THE PHYSICAL INJURY OCCURS**
20 **IN THE COURSE OF TYPICAL PLAYGROUND ACTIVITY DURING A SCHOOL DAY, OCCURS ON**
21 **THE PREMISES OF THE SCHOOL THAT THE MINOR ATTENDS AND IS REPORTED TO THE**
22 **LEGAL PARENT OR GUARDIAN OF THE MINOR.**

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

1 D. Reports shall be made immediately by telephone or in person and
2 shall be followed by a written report within seventy-two hours. The reports
3 shall contain:

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

6 2. The minor's age and the nature and extent of the minor's abuse,
7 child abuse, physical injury or neglect, including any evidence of previous
8 abuse, child abuse, physical injury or neglect.

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

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

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

27 G. A person who has custody or control of medical records of a minor
28 for whom a report is required or authorized under this section shall make the
29 records, or a copy of the records, available to a peace officer or child
30 protective services worker investigating the minor's neglect, child abuse,
31 physical injury or abuse on written request for the records signed by the
32 peace officer or child protective services worker. Records disclosed

1 pursuant to this subsection are confidential and may be used only in a
2 judicial or administrative proceeding or investigation resulting from a
3 report required or authorized under this section.

4 H. When telephone or in-person reports are received by a peace
5 officer, the officer shall immediately notify child protective services in
6 the department of economic security and make the information available to
7 ~~them~~ CHILD PROTECTIVE SERVICES. Notwithstanding any other statute, when
8 child protective services receives these reports by telephone or in person,
9 it shall immediately notify a peace officer in the appropriate jurisdiction.

10 I. Any person who is required to receive reports pursuant to
11 subsection A of this section may take or cause to be taken photographs of the
12 minor and the vicinity involved. Medical examinations of the involved minor
13 may be performed.

14 J. A person who furnishes a report, information or records required or
15 authorized under this section, or a person who participates in a judicial or
16 administrative proceeding or investigation resulting from a report,
17 information or records required or authorized under this section, is immune
18 from any civil or criminal liability by reason of that action unless the
19 person acted with malice or unless the person has been charged with or is
20 suspected of abusing or neglecting the child or children in question.

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

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

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

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

31 L. In any civil or criminal litigation in which a child's neglect,
32 dependency, physical injury, abuse, child abuse or abandonment is an issue, a

1 member of the clergy, a christian science practitioner or a priest shall not,
2 without his consent, be examined as a witness concerning any confession made
3 to him in his role as a member of the clergy, a christian science
4 practitioner or a priest in the course of the discipline enjoined by the
5 church to which he belongs. ~~Nothing in~~ This subsection ~~discharges~~ **DOES NOT**
6 **DISCHARGE** a member of the clergy, a christian science practitioner or a
7 priest from the duty to report pursuant to subsection A of this section.

8 M. If psychiatric records are requested pursuant to subsection G of
9 this section, the custodian of the records shall notify the attending
10 psychiatrist, who may excise from the records, before they are made
11 available:

- 12 1. Personal information about individuals other than the patient.
- 13 2. Information regarding specific diagnosis or treatment of a
14 psychiatric condition, if the attending psychiatrist certifies in writing
15 that release of the information would be detrimental to the patient's health
16 or treatment.

17 N. If any portion of a psychiatric record is excised pursuant to
18 subsection M of this section, a court, ~~upon~~ **ON** application of a peace officer
19 or child protective services worker, may order that the entire record or any
20 portion of the record that contains information relevant to the reported
21 abuse, child abuse, physical injury or neglect be made available to the peace
22 officer or child protective services worker investigating the abuse, child
23 abuse, physical injury or neglect.

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

- 27 P. For the purposes of this section:
- 28 1. "Abuse" has the same meaning prescribed in section 8-201.
 - 29 2. "Child abuse" means child abuse pursuant to section 13-3623.
 - 30 3. "Neglect" has the same meaning prescribed in section 8-201.
 - 31 4. "Reportable offense" means any of the following:

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

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

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

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

7 Sec. 2. Expungement of student records

8 On approval of the local school board, a school may expunge a report
9 that is contained in a student's school file and that was made pursuant to
10 section 13-3620, Arizona Revised Statutes, before the effective date of this
11 act if the report involved a physical injury to a minor who was of elementary
12 school age that occurred in the course of typical playground activity during
13 a school day, occurred on the premises of the school that the minor attends
14 and that was reported to the minor's legal parent or guardian."

15 Amend title to conform

GAIL GRIFFIN

2/19/13
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