

HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **SB 1003**

Townsend Floor Amendment

1. Prohibits DCS from using covert voice stress analysis during an investigation to determine if abuse or neglect exists.
2. Prohibits DCS from using overt voice stress analysis during an investigation unless informed consent is given.
3. States that the results of a voice stress analysis test are not admissible in court.
4. Requires the Superior Court, rather than the juvenile court, to issue orders for temporary custody of a child.
5. Specifies that a legal guardian or parent is not prohibited from recording conversations with DCS that are in accordance with statute.
 - a. Excludes judicial proceedings.
6. Specifies that a child may only be removed if:
 - a. The Superior Court issues an order for temporary custody;
 - b. Exigent circumstances exist; or
 - c. The child's parent or guardian gives their consent.
7. Permits the Superior Court to issue an order authorizing DCS to take temporary custody of a child upon filing of a sworn statement or testimony by a peace officer, child welfare investigator or a child safety worker.
 - a. *Currently, a child must be taken into temporary custody pursuant to a juvenile court order submitted, under oath, by an interested person, peace officer or child safety worker, if reasonable grounds exist to believe that temporary custody is clearly necessary to protect the child ([A.R.S. § 8-821](#)).*
8. Requires the court to determine that it is contrary to the child's welfare to remain in the home before authorizing temporary custody.
9. Specifies that if a child is taken into temporary custody due to an imminent risk of becoming a victim of abuse or neglect, probable cause must determine that the abuse or neglect will occur in the time it would take to obtain a court order.
 - a. *Currently, a child may be taken into temporary custody if it is determined to be clearly necessary to protect the child because probable cause exists to*

Amendment explanation prepared by Rick

Phone Number 926-3848

lcs

5/3/2017

believe that the child is either a victim or will imminently become a victim of abuse or neglect ([A.R.S. § 8-821](#)).

10. Requires DCS, by January 1, 2018, to:
 - a. Consult with the Administrative Office of the Courts to develop procedures and systems to implement the process of obtaining a court order before removing a child from their home; and
 - b. Submit a report to JLBC and the Joint Oversight Committee on DCS which includes:
 - i. An overview of how DCS will implement the process of obtaining a court order before removing a child; and
 - ii. DCS' and the Court's staffing and technological needs to implement the warrant removal process.
11. Contains an effective date of July 1, 2018.
12. Makes a technical change.

TOWNSEND FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1003
(Reference to Senate engrossed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 8-456, Arizona Revised Statutes, is amended to
3 read:

4 8-456. Investigative function; training; voice stress
5 analysis; recordings; criminal offenses; definition

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

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

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

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

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

18 B. The office of child welfare investigations shall investigate DCS
19 reports that contain a criminal conduct allegation as provided in sections
20 8-471 and 8-817.

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

23 1. Make a prompt and thorough investigation. An investigation must
24 evaluate and determine the nature, extent and cause of any condition
25 created by the parents, guardian or custodian or an adult member of the
26 victim's household that would tend to support or refute the allegation that
27 the child is a victim of abuse or neglect and determine the name, age and
28 condition of other children in the home. If an investigator has sufficient

1 information to determine that the child is not a victim of abuse or
2 neglect, the investigator may close the investigation.

3 2. If required by section 8-821 and subject to section 8-471, take a
4 child into temporary custody. Law enforcement officers shall cooperate
5 with the department to remove a child from the custody of the child's
6 parents, guardian or custodian when necessary.

7 D. THE DEPARTMENT MAY NOT USE COVERT VOICE STRESS ANALYSIS DURING AN
8 INVESTIGATION TO DETERMINE IF ABUSE OR NEGLECT EXISTS. THE DEPARTMENT MAY
9 NOT USE OVERT VOICE STRESS ANALYSIS DURING AN INVESTIGATION UNLESS THE
10 PERSON ON WHOM THE ANALYSIS IS USED GIVES INFORMED CONSENT. RESULTS OF
11 COMPUTER VOICE STRESS ANALYSIS ARE NOT ADMISSIBLE IN COURT.

12 ~~D.~~ E. After an investigation, an investigator shall:

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

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

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

21 (a) The department's case management information system within a
22 reasonable amount of time that does not exceed forty-five days after
23 receipt of the DCS report except as provided in section 8-811. If the
24 investigation involves allegations regarding a child who at the time of the
25 alleged incident was in the custody of a child welfare agency licensed by
26 the department under this title, a copy of the report and any additional
27 investigative or other related reports must be provided to the board of
28 directors of the agency or to the administrative head of the agency unless
29 the incident is alleged to have been committed by the person. The
30 department shall excise all information with regard to the identity of the
31 source of the reports.

1 (b) The appropriate court forty-eight hours before a dependency
2 hearing pursuant to a petition of dependency or within twenty-one days
3 after a petition of dependency is filed, whichever is earlier. On receipt
4 of the report the court shall make the report available to all parties and
5 counsel.

6 4. Accept a child into voluntary placement pursuant to section
7 8-806.

8 5. Identify, promptly obtain and abide by court orders that restrict
9 or deny custody, visitation or contact by a parent or other person in the
10 home with the child and notify appropriate personnel in the department to
11 preclude violations of a court order in the provision of any services.

12 ~~F.~~ F. In conducting an investigation pursuant to this section, if
13 the investigator is made aware that an allegation of abuse or neglect may
14 also have been made in another state, the investigator shall contact the
15 appropriate agency in that state to attempt to determine the outcome of any
16 investigation of that allegation.

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

22 H. EXCEPT IN JUDICIAL PROCEEDINGS, A PARENT OR LEGAL GUARDIAN MAY
23 NOT BE PROHIBITED FROM RECORDING CONVERSATIONS WITH THE DEPARTMENT PURSUANT
24 TO THIS SECTION.

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

28 Sec. 2. Section 8-501, Arizona Revised Statutes, is amended to read:

29 8-501. Definitions

30 A. In this article, unless the context otherwise requires:

1 1. "Child developmental certified home" means a regular foster home
2 that is licensed pursuant to section 8-509 and that is certified by the
3 department of economic security pursuant to section 36-593.01.

4 2. "Child welfare agency" or "agency":

5 (a) Means:

6 (i) Any agency or institution that is maintained by a person, firm,
7 corporation, association or organization to receive children for care and
8 maintenance or for twenty-four hour social, emotional or educational
9 supervised care or who have been adjudicated as a delinquent or dependent
10 child.

11 (ii) Any institution that provides care for unmarried mothers and
12 their children.

13 (iii) Any agency that is maintained by this state, a political
14 subdivision of this state or a person, firm, corporation, association or
15 organization to place children or unmarried mothers in a foster home.

16 (b) Does not include state operated institutions or facilities,
17 detention facilities for children established by law, health care
18 institutions that are licensed by the department of health services
19 pursuant to title 36, chapter 4 or private agencies that exclusively
20 provide children with social enrichment or recreational opportunities and
21 that do not use restrictive behavior management techniques.

22 3. "Division" or "department" means the department of child safety.

23 4. "Former dependent child" means a person who was previously
24 adjudicated a dependent child in a dependency proceeding that has been
25 dismissed by order of the juvenile court.

26 5. "Foster child" means a child placed in a foster home or child
27 welfare agency.

28 6. "Foster home" means a home that is maintained by any individual
29 or individuals having the care or control of minor children, other than
30 those related to each other by blood or marriage, or related to such
31 individuals, or who are legal wards of such individuals.

1 7. "Foster parent" means any individual or individuals maintaining a
2 foster home.

3 8. "Group foster home" means a licensed regular or special foster
4 home that is suitable for placement of more than five minor children but
5 not more than ten minor children.

6 9. "Out-of-home placement" means the placing of a child in the
7 custody of an individual or agency other than with the child's parent or
8 legal guardian and includes placement in temporary custody pursuant to
9 section 8-821, ~~subsection A or B~~, voluntary placement pursuant to section
10 8-806 or placement due to dependency actions.

11 10. "Parent" means the natural or adoptive mother or father of a
12 child.

13 11. "Reason for leaving care" means one of the following:

14 (a) Reunification with a parent or primary caretaker.

15 (b) Living with another relative.

16 (c) Adoption by a relative.

17 (d) Adoption by a foster parent.

18 (e) Adoption by another person.

19 (f) Age of majority.

20 (g) Guardianship by a relative.

21 (h) Guardianship by another person.

22 (i) Transfer to another agency.

23 (j) Runaway.

24 (k) Death.

25 12. "Receiving foster home" means a licensed foster home that is
26 suitable for immediate placement of children when taken into custody or
27 pending medical examination and court disposition.

28 13. "Regular foster home" means a licensed foster home that is
29 suitable for placement of not more than five minor children.

30 14. "Relative" means a grandparent, great-grandparent, brother or
31 sister of whole or half blood, aunt, uncle or first cousin.

1 15. "Restrictive behavior management" means an intervention or
2 procedure that attempts to guide, redirect, modify or manage behavior
3 through the use of any of the following:

4 (a) Physical force to cause a child to comply with a directive.
5 Physical force does not include physical escort. For the purposes of this
6 subdivision, "physical escort" means temporarily touching or holding a
7 child's hand, wrist, arm, shoulder or back to induce the child to walk to a
8 safe location.

9 (b) A device, action or medication to restrict the movement or
10 normal function of a child in order to control or change the child's
11 behavior and that includes:

12 (i) Chemical restraint. For the purposes of this item, "chemical
13 restraint" means the use of any psychoactive medication as a restraint to
14 control the child's behavior or to restrict the child's freedom of movement
15 and that is not a standard treatment for the child's medical or psychiatric
16 condition.

17 (ii) Mechanical restraint. For the purposes of this item,
18 "mechanical restraint" means the use of any physical device to limit a
19 child's movement and to prevent the child from causing harm to self or to
20 others. Mechanical restraint does not include devices such as
21 orthopedically prescribed devices, surgical dressings or bandages,
22 protective helmets or any other method that involves the physical holding
23 of a child to conduct a routine physical examination or test or to protect
24 the child from falling out of bed or to permit the child to participate in
25 activities in order to reduce the risk of physical harm to the child.

26 (iii) Physical restraint. For the purposes of this item, "physical
27 restraint" means applying physical force to reduce or restrict a child's
28 ability to freely move the child's arms, legs or head. Physical restraint
29 does not include temporarily holding a child to permit the child to
30 participate in activities of daily living if this holding does not involve
31 the risk of physical harm to the child.

1 (iv) Seclusion. For the purposes of this item, "seclusion" means
2 placing a child against the child's will in a room in which the child is
3 unable to open the door in order to prevent the child from doing harm to
4 self or others.

5 16. "Special foster home" means a licensed foster home that is
6 capable of handling not more than five minor children who require special
7 care for physical, mental or emotional reasons or who have been adjudicated
8 delinquent. Special foster home includes any home handling foster children
9 aged twelve through seventeen.

10 B. A foster home or any classification of foster home defined in
11 subsection A of this section includes a home having the care of persons who
12 are under twenty-one years of age and the cost of whose care is provided
13 pursuant to section 8-521.01.

14 Sec. 3. Section 8-821, Arizona Revised Statutes, is amended to read:

15 8-821. Taking into temporary custody; medical examination;
16 placement; interference; violation; classification

17 A. A child shall be taken into temporary custody ~~in proceedings to~~
18 ~~declare a child a temporary ward of the court to protect the child; ONLY~~
19 pursuant to ONE OF THE FOLLOWING:

20 1. An order of the ~~juvenile~~ SUPERIOR COURT.

21 2. SUBSECTION D OF THIS SECTION.

22 3. THE CONSENT OF THE CHILD'S PARENT OR GUARDIAN.

23 B. THE SUPERIOR court, on a DEPENDENCY petition by an interested
24 person, a peace officer, A CHILD WELFARE INVESTIGATOR or a child safety
25 worker under oath OR ON A SWORN STATEMENT OR TESTIMONY BY A PEACE OFFICER,
26 A CHILD WELFARE INVESTIGATOR OR A CHILD SAFETY WORKER, MAY ISSUE AN ORDER
27 AUTHORIZING THE DEPARTMENT TO TAKE TEMPORARY CUSTODY OF A CHILD ON FINDING
28 that reasonable grounds exist to believe that temporary custody is clearly
29 necessary to protect the child from suffering abuse or neglect AND IT IS
30 CONTRARY TO THE CHILD'S WELFARE TO REMAIN IN THE HOME.

31 C. If a child is taken into temporary custody pursuant to this
32 section, the child's sibling shall also be taken into temporary custody

1 only if reasonable grounds independently exist to believe that temporary
2 custody is clearly necessary to protect the child from suffering abuse or
3 neglect.

4 ~~B.~~ D. A child may be taken into temporary custody **WITHOUT A COURT**
5 **ORDER** by a peace officer, a child welfare investigator or a child safety
6 worker if temporary custody is clearly necessary to protect the child
7 because probable cause exists to believe that the child is either:

8 1. A victim or will imminently become a victim of abuse or neglect
9 **IN THE TIME IT WOULD TAKE TO OBTAIN A COURT ORDER.**

10 2. Suffering serious physical or emotional injury that can only be
11 diagnosed by a medical doctor or psychologist.

12 3. Physically injured as a result of living on premises where
13 dangerous drugs or narcotic drugs are being manufactured. For the purposes
14 of this paragraph, "dangerous drugs" and "narcotic drugs" have the same
15 meanings prescribed in section 13-3401.

16 4. Reported by the department to be a missing child at risk of
17 serious harm.

18 ~~C.~~ E. In determining if a child should be taken into temporary
19 custody, the ~~interested person~~ **COURT**, peace officer, child welfare
20 investigator or child safety worker shall take into consideration:

21 1. As a paramount concern the child's health and safety.

22 2. Whether the parent is willing to participate in any services that
23 are offered to the parent.

24 ~~D.~~ F. A person who takes a child into custody pursuant to
25 subsection ~~B.~~ D, paragraph 2 of this section shall immediately have the
26 child examined by a medical doctor or psychologist. After the examination
27 the person shall release the child to the custody of the parent or guardian
28 of the child unless the examination reveals abuse or neglect. Temporary
29 custody of a child taken into custody pursuant to subsection ~~B.~~ D,
30 paragraph 2 of this section shall not exceed twelve hours.

1 ~~F.~~ G. A child who is taken into temporary custody pursuant to this
2 article shall not be detained in a police station, jail or lockup where
3 adults charged with or convicted of a crime are detained.

4 ~~F.~~ H. A child shall not remain in temporary custody for more than
5 seventy-two hours excluding Saturdays, Sundays and holidays unless a
6 dependency petition is filed.

7 ~~G.~~ I. A person who knowingly interferes with the taking of a child
8 into temporary custody under this section is guilty of a class 2
9 misdemeanor.

10 Sec. 4. Section 8-823, Arizona Revised Statutes, is amended to read:

11 8-823. Notice of taking into temporary custody

12 A. If a child is taken into temporary custody pursuant to this
13 article, the interested person, peace officer or child safety worker taking
14 the child into custody shall provide written notice within six hours to the
15 parent or guardian of the child, unless:

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

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

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

24 B. The written notice shall contain a signature line for the parent
25 or guardian to acknowledge receipt of both written and verbal notices. The
26 written and verbal notices shall contain the name of the person and agency
27 taking the child into custody, the location from which the child was taken
28 and all of the following information:

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

1 2. Services that are available to the parent or guardian, including
2 a statement of parental rights and information on how to contact the
3 ombudsman-citizens aide's office and an explanation of the services that
4 office offers.

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

6 4. The name and telephone number of the agency responsible for the
7 child.

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

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

14 7. One of the following:

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

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

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

28 9. Information regarding the ability of the person about whom the
29 report was made to provide a verbal, telephonic or written response to the
30 allegations. A verbal response shall be included in the written report of
31 the investigation. A written response, including any documentation, shall
32 be included in the case file.

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

3 11. A statement that the parent or guardian must immediately provide
4 to the department the names, the type of relationship and all available
5 information necessary to locate persons who are related to the child or who
6 have a significant relationship with the child. If there is not sufficient
7 information available to locate a relative or person with a significant
8 relationship with the child, the parent shall inform the department of this
9 fact. If the parent or guardian obtains information regarding the
10 existence or location of a relative or person with a significant
11 relationship with the child, the parent or guardian shall immediately
12 provide that information to the department.

13 12. A statement that the parent or guardian must be prepared to
14 provide to the court at the preliminary protective hearing the names, the
15 type of relationship and all available information necessary to locate
16 persons who are related to the child or who have a significant relationship
17 with the child.

18 C. The child safety worker shall provide the parent or guardian with
19 the notice even if the parent or guardian refuses to sign the
20 acknowledgment.

21 D. Immediately before the time of the preliminary protective
22 hearing, the persons described in section 8-824, subsection B shall meet
23 and attempt to reach an agreement about placement of the child, services to
24 be provided to the child, parent or guardian and visitation of the child.
25 The parties shall meet with their counsel, if any, before this meeting.
26 Consideration shall be given to the availability of reasonable services to
27 the parent or guardian and the child's health and safety shall be a
28 paramount concern. The persons described in section 8-824, subsection C
29 may attend the meeting to reach an agreement.

30 E. If a dependency petition is filed by the department, the child
31 safety worker is responsible for delivering the notice of the preliminary
32 protective hearing prescribed in subsection B, paragraph 7 of this section

1 to the parent or guardian. In all other cases, the person who files the
2 dependency petition is responsible for delivery of this notice to the
3 parent or guardian. If the location of the parent or guardian is unknown,
4 the person who is responsible for serving this notice shall make reasonable
5 efforts to locate and notify the parent or guardian."

6 Renumber to conform

7 Page 1, line 23, after "REVIEW" insert ":

8 1."

9 Line 24, after the period strike remainder of line

10 Line 25, strike "REVIEW" insert "2."

11 Between lines 27 and 28, insert:

12 "3. POLICIES AND PROCEDURES RELATING TO GUARDIANSHIPS AND DEPENDENCY
13 PROCEEDINGS."

14 Line 28, strike "E." insert "4."

15 After line 29, insert:

16 "Sec. 6. Implementation of act; report

17 On or before January 1, 2018, the department of child safety shall do
18 both of the following:

19 1. Consult with the administrative office of the courts to develop
20 systems and procedures to implement section 8-821, Arizona Revised
21 Statutes, as amended by this act.

22 2. Submit a report to the joint legislative budget committee and the
23 joint legislative oversight committee on the department of child safety
24 established by section 41-1292, Arizona Revised Statutes, as added by this
25 act, that includes:

26 (a) An overview of how the department will implement the requirement
27 to obtain a court order to remove a child as prescribed in section 8-821,
28 Arizona Revised Statutes, as amended by this act.

29 (b) The technological and staffing needs of the department of child
30 safety and the judicial system to implement the requirements of section
31 8-821, Arizona Revised Statutes, as amended by this act.

1 Sec. 7. Effective date
2 Sections 8-456, 8-501, 8-821 and 8-823, Arizona Revised Statutes, as
3 amended by this act, are effective from and after June 30, 2018."
4 Amend title to conform

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