

REFERENCE TITLE: adoption; child welfare; placement; dependency

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2378

Introduced by
Representative Barto

AN ACT

AMENDING SECTIONS 8-112, 8-113, 8-509 AND 8-514.02, ARIZONA REVISED STATUTES; AMENDING SECTION 8-514.03, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 153, SECTION 3; REPEALING SECTION 8-514.03, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 110, SECTION 2; AMENDING TITLE 8, CHAPTER 4, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-514.08; AMENDING SECTIONS 8-533, 8-807.01 AND 8-810, ARIZONA REVISED STATUTES; RELATING TO 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 8-112, Arizona Revised Statutes, is amended to
3 read:

4 8-112. Social studies; requirements

5 A. The division, an agency or an officer of the court shall conduct
6 and submit a social study to the court ten days before the hearing on the
7 petition to adopt. Notwithstanding any other provisions of this section,
8 the court may order an additional social study or waive the social study
9 if it determines that this is in the child's best interests because of
10 special circumstances.

11 B. Except as provided in subsection D or E of this section, the
12 social study shall include the following:

13 1. The social history, heritage and mental and physical condition
14 of the child and the child's birth parents.

15 2. The child's current placement in the prospective adoptive
16 parent's home and the child's adjustment to that home.

17 3. The prospective adoptive parent's suitability to adopt.

18 4. The existing and proposed arrangements regarding the child's
19 custody.

20 5. Any financial arrangement concerning the proposed adoption made
21 by the birth parents, the division, an agency, an attorney or the
22 prospective adoptive parents.

23 6. A state and federal criminal records check of the prospective
24 adoptive parent and each adult who is living permanently with the
25 prospective adoptive parent except a birth or legal parent with custody of
26 the child. A valid fingerprint clearance card **THAT IS ISSUED** pursuant to
27 section 41-1758.07 satisfies this requirement. The court may order an
28 additional state and federal criminal records check for good cause.

29 7. A central registry records check **IN EACH STATE IN WHICH A**
30 **PROSPECTIVE ADOPTIVE PARENT OR AN ADULT WHO IS LIVING PERMANENTLY WITH THE**
31 **PROSPECTIVE ADOPTIVE PARENT HAS RESIDED DURING THE PRIOR FIVE YEARS,**
32 including any history of child welfare referrals, ~~with the division~~ of the
33 prospective adoptive parent and each adult who is living permanently with
34 the prospective adoptive parent.

35 8. Any other information that is pertinent to the adoption
36 proceedings.

37 C. The social study conducted pursuant to subsection A of this
38 section is part of the case file and shall contain a definite
39 recommendation for or against the proposed adoption and the reasons for
40 that recommendation.

41 D. The social study conducted pursuant to subsection A of this
42 section shall consist only of the results of the state and federal
43 criminal records check and the central registry records check conducted
44 pursuant to subsection B of this section if ~~either~~ **ANY** of the following is
45 true:

1 1. The prospective adoptive parent is the child's stepparent who
2 has been legally married to the child's birth or legal parent for at least
3 one year and the child has resided with the stepparent and parent for at
4 least six months.

5 2. The prospective adoptive parent is the child's adult sibling, by
6 the whole or half blood, or the child's aunt, uncle, grandparent or
7 great-grandparent and the child has resided with the prospective adoptive
8 parent for at least six months.

9 3. THE CHILD IS AT LEAST SIXTEEN YEARS OF AGE.

10 E. If the child being considered for adoption has resided with the
11 prospective adoptive parent for at least six months and the prospective
12 adoptive parent either has adopted a child or was appointed the permanent
13 guardian of the child within three years preceding the current
14 application, or is a foster parent who is licensed by this state, the
15 social study conducted pursuant to subsection A of this section may
16 consist only of the following:

17 1. The results of the central registry records check conducted
18 pursuant to subsection B of this section.

19 2. A review of any material changes in circumstances that have
20 occurred since the previous adoption, permanent guardianship or license
21 renewal that affect the prospective adoptive parent's ability to adopt the
22 child or for the child to be placed in the prospective adoptive parent's
23 home.

24 Sec. 2. Section 8-113, Arizona Revised Statutes, is amended to
25 read:

26 8-113. Removal from home; expedited hearings; probationary
27 period; rights and responsibilities; visitation
28 limitations

29 A. A child who has been placed in a certified adoptive home by any
30 agency or the division shall not be removed from the home except on order
31 of the juvenile court. The agency or the division may request a hearing
32 for removal before the juvenile court, and in those cases, a hearing shall
33 be held not less than ten days after notice has been given to the
34 certified prospective adoptive parent or parents.

35 B. This section does not prohibit prospective adoptive parents from
36 voluntarily returning any child to the placing agency or the division or
37 does not prevent the removal of a child pursuant to section 8-456 or
38 8-821.

39 C. Pending the final adoption hearing, the child is subject to
40 further investigation by the division, an officer of the court or an
41 agency that is required to do the social study pursuant to section 8-105.

42 D. The court shall hold the hearing on the petition:

43 1. Within sixty days if the child has resided in the home of the
44 prospective adoptive parent or parents for at least one year immediately
45 preceding the filing of the petition for adoption. If the prospective

1 adoptive parent is the stepparent of the child, this requirement applies
2 only if the stepparent has been married to the birth or legal parent of
3 the child for at least one year.

4 2. Within ninety days if the child is under three years of age or
5 has resided in the home of the prospective adoptive parent or parents for
6 at least six months preceding the filing of the petition for adoption. If
7 the prospective adoptive parent is the stepparent of the child, this
8 requirement applies only if the stepparent has been married to the birth
9 or legal parent of the child for at least one year.

10 3. In all other cases, within six months after the filing of the
11 petition for adoption.

12 E. If subsection D, paragraph 1 or 2 of this section applies, the
13 petitioner shall file a notification of that fact with the petition to
14 adopt.

15 F. The court shall postpone a hearing scheduled to be held pursuant
16 to subsection D of this section if the court has not received the results
17 of the criminal records check at least forty-eight hours before the final
18 hearing. The court shall reschedule the hearing within twenty-one days
19 after receiving the results.

20 G. The court or the petitioner may postpone the final hearing up to
21 sixty days in order to give notice to any interested party or for other
22 good cause.

23 H. The court shall hold an expedited hearing on a motion that is
24 supported by a sworn affidavit that the expedited hearing is in the
25 child's best interests and that any of the following is true:

26 1. The child is suffering from a chronically debilitating,
27 progressive or fatal disease as diagnosed by a licensed physician.

28 2. A prospective adoptive parent, birth parent or legal parent is
29 terminally ill, as diagnosed by a licensed physician.

30 3. THE CHILD IS AT LEAST SIXTEEN YEARS OF AGE.

31 ~~3.~~ 4. The court finds other compelling reasons relating to the
32 special needs and welfare of the child to expedite the hearing.

33 I. During the probationary period or any extension, prospective
34 adoptive parents who have complied with ~~the provisions of~~ this chapter
35 have the following rights and responsibilities with respect to the child:

36 1. The right to physical custody of the child unless the child is
37 removed by order of the juvenile court after notice and a hearing.

38 2. The right to consent to necessary medical procedures for the
39 child.

40 3. The right to consent to participation in social and athletic
41 activities for the child.

42 4. The responsibility to provide proper care and support for the
43 child in addition to that already provided by the placing agency or
44 division.

1 5. The right to refuse visitation between the child and a birth
2 parent if that parent's rights have been terminated pending appeal unless
3 the juvenile court orders visitation.

4 6. On request, the right to be notified by the agency or the
5 division of and to participate in all meetings in which the division is
6 making decisions relating to the child in the prospective adoptive home.

7 7. On request, the right to notification from the agency or the
8 division of an appeal of the termination of the birth parent's parental
9 rights.

10 Sec. 3. Section 8-509, Arizona Revised Statutes, is amended to
11 read:

12 8-509. Licensing of foster homes; renewal of license;
13 provisional license; exemption from licensure;
14 immunization requirements

15 A. The department shall license and certify foster homes. Licenses
16 are valid for a period of two years.

17 B. The department shall not issue a license without satisfactory
18 proof that the foster parent or parents have completed six actual hours of
19 approved initial foster parent training as set forth in section 8-503 and
20 that each foster parent and each other adult member of the household has a
21 valid fingerprint clearance card issued pursuant to section 41-1758.07.
22 The foster parent and each other adult member of the household must
23 certify on forms that are provided by the department and that are
24 notarized whether the foster parent or other adult member of the household
25 is awaiting trial on or has ever been convicted of any of the criminal
26 offenses listed in section 41-1758.07, subsections B and C in this state
27 or similar offenses in another state or jurisdiction.

28 C. The department shall not renew a license without satisfactory
29 proof that the foster parent or parents have completed twelve actual hours
30 of approved ongoing foster parent training during the two-year period of
31 licensure as set forth in section 8-503.

32 D. **BEFORE ISSUING A LICENSE, THE DEPARTMENT SHALL REQUEST A CHILD**
33 **SAFETY CENTRAL REGISTRY CHECK FOR THE APPLICANT OR ANY OTHER ADULT**
34 **RESIDING IN THE FOSTER HOME FROM ANY STATE IN WHICH THE APPLICANT OR OTHER**
35 **ADULT MEMBER OF THE HOUSEHOLD HAS RESIDED DURING THE PRIOR FIVE YEARS.**

36 ~~E.~~ E. If the department determines that completing the training
37 required in subsections B and C of this section would be a hardship to the
38 foster parent or parents, the department may issue a provisional license
39 for a period not to exceed six months. A provisional license may not be
40 renewed.

41 ~~F.~~ F. Child welfare agencies that submit foster homes for
42 licensing shall conduct an investigation of the foster home pursuant to
43 licensing rules of the department. The department shall conduct
44 investigations of all other foster homes. If the foster home meets all
45 requirements set by the department, the agency shall submit an application

1 stating the foster home's qualifications to the department. The agency
2 may also recommend the types of licensing and certification to be granted
3 to the foster home.

4 ~~F.~~ G. The department shall accept an adoptive home certification
5 study as a licensing home study if the study has been updated within the
6 past three months to include the information necessary to determine
7 whether the home meets foster care licensing standards.

8 ~~G.~~ H. This section does not apply if the child is placed in a home
9 by a means other than by court order and if the home does not receive
10 compensation from this state or any political subdivision of this state.

11 ~~H.~~ I. The department may not prohibit a person operating a
12 licensed foster home from applying for or receiving compensation as a
13 foster home parent due to employment with this state.

14 ~~I.~~ J. The department shall not require a foster parent to immunize
15 the foster parent's natural or adoptive children as a condition of foster
16 home licensure.

17 ~~J.~~ K. A licensee may modify the renewal date of a license issued
18 pursuant to this section by submitting an application for modification of
19 renewal date with the department on a form prescribed by the department.
20 The licensee must specify the new month of renewal on the application.
21 The modified renewal date must be before, but not more than six months
22 earlier than, the existing renewal date.

23 ~~K.~~ L. The foster care review board shall review the cases of
24 children placed by the department in foster homes licensed pursuant to
25 this section as required by section 8-515.03.

26 Sec. 4. Section 8-514.02, Arizona Revised Statutes, is amended to
27 read:

28 8-514.02. Placement of child

29 A. The department may place a child with a parent, a relative or a
30 person who has a significant relationship with a child.

31 B. During an emergency situation when a child must be placed, the
32 department shall not place a child with a relative or a person who has a
33 significant relationship with the child unless each adult member of the
34 relative's or person's household consents to **AND PARTICIPATES IN** both of
35 the following:

36 1. A preliminary state and federal name-based background check
37 **BEFORE THE PLACEMENT OF THE CHILD.**

38 2. Within fifteen calendar days ~~from~~ **AFTER** the ~~date the name-based~~
39 ~~background check is conducted~~ **PLACEMENT OF THE CHILD**, the submission of a
40 full set of the person's fingerprints to obtain a state and federal
41 criminal records check pursuant to section 41-1750 and Public Law 92-544.
42 The department of public safety may exchange this fingerprint data with
43 the federal bureau of investigation.

44 C. Except for a placement pursuant to section 8-861, before a child
45 who has been in out-of-home care is placed with a parent, the department

1 shall conduct a background check pursuant to section 41-1750 of all adult
2 household members and all adults who have been identified as having
3 caregiving responsibilities of the child in the home. The results of this
4 background check shall be considered when making a safety assessment of
5 the placement.

6 D. The department shall immediately remove a child from a home if
7 **EITHER OF THE FOLLOWING OCCURS:**

8 1. Any adult household member fails to provide fingerprints as
9 provided in subsection B of this section.

10 2. **UNLESS ON PETITION TO A COURT THE COURT FINDS GOOD CAUSE FOR THE**
11 **PLACEMENT, AN ADULT HOUSEHOLD MEMBER OR AN ADULT WHO HAS CAREGIVING**
12 **RESPONSIBILITIES FOR THE CHILD IS REQUIRED TO REGISTER AS A SEX OFFENDER**
13 **IN ANY STATE OR HAS BEEN CONVICTED IN ANY STATE OF ONE OR MORE OF THE**
14 **FOLLOWING:**

15 (a) **FELONY CHILD ABUSE OR NEGLECT.**

16 (b) **SPOUSAL OR DOMESTIC ABUSE.**

17 (c) **A CRIME IN WHICH A CHILD IS THE VICTIM, INCLUDING CHILD**
18 **PORNOGRAPHY.**

19 (d) **A CRIME INVOLVING VIOLENCE, INCLUDING SEXUAL ASSAULT, HOMICIDE**
20 **AND ANY OTHER ASSAULT OR BATTERY.**

21 E. If placement of the child in the home was ordered by the court,
22 the department shall immediately request a change of physical custody from
23 the court **IF ONE OF THE ACTIONS DESCRIBED IN SUBSECTION D OF THIS SECTION**
24 **OCCURS.**

25 ~~F.~~ F. Unless approved in writing by the department, the parent, ~~or~~
26 relative **OR PERSON WHO HAS A SIGNIFICANT RELATIONSHIP WITH A CHILD** shall
27 not allow the child to:

28 1. Be placed with any other person.

29 2. Have any contact with the allegedly abusive or neglectful
30 parent, guardian or custodian or other person designated by the
31 department.

32 3. Leave this state.

33 ~~F.~~ G. If a child is placed with a parent, ~~or~~ relative **OR PERSON**
34 **WHO HAS A SIGNIFICANT RELATIONSHIP WITH A CHILD** pursuant to this section,
35 the department shall inform the parent, ~~or~~ relative **OR PERSON WHO HAS A**
36 **SIGNIFICANT RELATIONSHIP WITH A CHILD** about available financial and
37 nonfinancial services and eligibility requirements and shall assist the
38 parent, ~~or~~ relative **OR PERSON WHO HAS A SIGNIFICANT RELATIONSHIP WITH A**
39 **CHILD** to complete the necessary applications.

40 Sec. 5. Section 8-514.03, Arizona Revised Statutes, as amended by
41 Laws 2018, chapter 153, section 3, is amended to read:

42 **8-514.03. Kinship foster care; requirements; investigation;**
43 **report**

44 A. The department shall establish kinship foster care services for
45 a child who has been removed from the child's home and who is in the

1 custody of the department. The placement of a child who is in the custody
2 of the department shall be determined by the best interests of the child.

3 B. A kinship foster care parent applicant who is not a licensed
4 foster care parent shall be at least eighteen years of age. The applicant
5 and each member of the applicant's household who is at least eighteen
6 years of age shall submit a full set of fingerprints to the department of
7 child safety for the purpose of obtaining a state and federal criminal
8 records check pursuant to section 41-1750 and Public Law 92-544. The
9 department of public safety may exchange this fingerprint data with the
10 federal bureau of investigation. The department of child safety shall
11 determine if the applicant is able to meet the child's health and safety
12 needs by conducting one or more home visits and interviewing the
13 applicant. The department of child safety may interview other household
14 members, review the applicant's personal and professional references and
15 conduct ~~department of~~ child safety central registry checks **IN EACH STATE**
16 **IN WHICH THE APPLICANT RESIDED DURING THE PRIOR FIVE YEARS.**

17 C. If the department determines that a kinship foster care
18 placement is not in the best interest of the child, the department shall
19 provide written notification to the applicant within fifteen business
20 days. The notice shall include the specific reason for denial, the
21 applicant's right to appeal and the process for reviewing the decision.

22 D. A kinship foster care parent may be eligible to receive the
23 following financial services for the child:

24 1. Full foster care benefits, including payment if the kinship
25 foster care parent becomes a licensed foster care home.

26 2. Temporary assistance for needy families cash assistance payments
27 for a child only case and supplemental financial support.

28 E. The department shall establish procedures for child welfare
29 workers to inform kinship foster care families about available financial
30 and nonfinancial services and eligibility requirements and shall assist
31 the families in completing the necessary application.

32 F. If a family declines to apply for financial services, the family
33 shall sign a statement indicating that the family declined services. The
34 statement does not prevent the family from making application in the
35 future. The worker shall provide a copy of the statement to the family.

36 G. The department shall provide nonfinancial services for a kinship
37 foster care parent through existing means or referral. Nonfinancial
38 services may include:

39 1. Family assessment.

40 2. Case management.

41 3. Child day care.

42 4. Housing search and relocation.

43 5. Parenting skills training.

44 6. Supportive intervention and guidance counseling.

- 1 7. Transportation.
- 2 8. Emergency services.
- 3 9. Parent aid services.
- 4 10. Respite services.
- 5 11. Additional services that the department determines are
- 6 necessary to meet the needs of the child and family.

7 ~~H. The department of child safety shall evaluate biannually the~~
8 ~~performance of the kinship foster care program. On or before November 1,~~
9 ~~the department shall submit a report to the speaker of the house of~~
10 ~~representatives, the president of the senate and the governor and shall~~
11 ~~provide a copy of this report to the secretary of state. The report shall~~
12 ~~contain the following information:~~

- 13 ~~1. The demographics and number of children placed with relative~~
14 ~~caregivers.~~
- 15 ~~2. The demographics of kinship foster caregivers.~~
- 16 ~~3. The number of relative children per kinship foster care family.~~
- 17 ~~4. The department's success at maintaining kinship foster care~~
18 ~~placements.~~
- 19 ~~5. The type of services provided to kinship foster care families.~~
- 20 ~~6. The cost of services provided to kinship foster care families~~
21 ~~compared to the cost of out-of-home placements.~~
- 22 ~~7. Recommendations regarding program improvement.~~

23 Sec. 6. Repeal
24 Section 8-514.03, Arizona Revised Statutes, as amended by laws 2018,
25 chapter 110, section 2, is repealed.

26 Sec. 7. Title 8, chapter 4, article 4, Arizona Revised Statutes, is
27 amended by adding section 8-514.08, to read:

28 8-514.08. Educational decisions; parental notification;
29 failure to participate

30 A. THE DEPARTMENT SHALL NOTIFY A BIOLOGICAL OR ADOPTIVE PARENT
31 WHOSE CHILD IS IN THE CUSTODY OF THE DEPARTMENT AND WHOSE PARENTAL RIGHTS
32 HAVE NOT BEEN TERMINATED OF ANY MEETING INVOLVING EDUCATIONAL DECISIONS
33 CONCERNING THE CHILD, UNLESS A COURT HAS ORDERED OTHERWISE.

34 B. IF THE BIOLOGICAL OR ADOPTIVE PARENTS OF A CHILD DO NOT
35 PARTICIPATE IN EDUCATIONAL DECISIONS, ANY OF THE FOLLOWING PERSONS MAY
36 MAKE EDUCATIONAL DECISIONS CONCERNING THE CHILD:

37 1. A FOSTER PARENT, UNLESS THE LAWS OF THIS STATE OR CONTRACTUAL
38 OBLIGATIONS OTHERWISE PROHIBIT THE FOSTER PARENT FROM MAKING EDUCATIONAL
39 DECISIONS.

40 2. A GUARDIAN OTHER THAN THIS STATE WHO IS GENERALLY AUTHORIZED TO
41 ACT ON BEHALF OF THE CHILD OR IS SPECIFICALLY AUTHORIZED TO MAKE
42 EDUCATIONAL DECISIONS FOR THE CHILD.

43 3. AN INDIVIDUAL WHO IS ACTING IN PLACE OF A BIOLOGICAL OR ADOPTIVE
44 PARENT AND WITH WHOM THE CHILD LIVES.

1 Sec. 8. Section 8-533, Arizona Revised Statutes, is amended to
2 read:

3 8-533. Petition; who may file; grounds

4 A. Any person or agency that has a legitimate interest in the
5 welfare of a child, including, ~~but not limited to,~~ a relative, a foster
6 parent, a physician, the department or a private licensed child welfare
7 agency, may file a petition for the termination of the parent-child
8 relationship alleging grounds contained in subsection B of this section.

9 B. Evidence sufficient to justify the termination of the
10 parent-child relationship shall include any one of the following, and in
11 considering any of the following grounds, the court shall also consider
12 the best interests of the child:

13 1. That the parent has abandoned the child.

14 2. That the parent has neglected or wilfully abused a child. This
15 abuse includes serious physical or emotional injury or situations in which
16 the parent knew or reasonably should have known that a person was abusing
17 or neglecting a child.

18 3. That the parent is unable to discharge parental responsibilities
19 because of mental illness, mental deficiency or a history of chronic abuse
20 of dangerous drugs, controlled substances or alcohol and there are
21 reasonable grounds to believe that the condition will continue for a
22 prolonged indeterminate period.

23 4. That the parent is deprived of civil liberties due to the
24 conviction of a felony if the felony of which that parent was convicted is
25 of such nature as to prove the unfitness of that parent to have future
26 custody and control of the child, including murder of another child of the
27 parent, manslaughter of another child of the parent or aiding or abetting
28 or attempting, conspiring or soliciting to commit murder or manslaughter
29 of another child of the parent, or if the sentence of that parent is of
30 such length that the child will be deprived of a normal home for a period
31 of years.

32 5. That the potential father failed to file a paternity action
33 within thirty days of completion of service of notice as prescribed in
34 section 8-106, subsection G.

35 6. That the putative father failed to file a notice of claim of
36 paternity as prescribed in section 8-106.01.

37 7. That the parents have relinquished their rights to a child to an
38 agency or have consented to the adoption.

39 8. That the child is ~~being cared for in an out-of-home placement~~
40 ~~under the supervision of the juvenile court, the division or a licensed~~
41 ~~child welfare agency~~ **THE SUBJECT OF A DEPENDENCY ACTION**, that the agency
42 responsible for the care of the child has made a diligent effort to
43 provide appropriate reunification services and that one of the following
44 circumstances exists:

1 (a) The child has been ~~in an out-of-home placement~~ THE SUBJECT OF A
2 DEPENDENCY ACTION for a cumulative total period of nine months or longer
3 ~~pursuant to court order or voluntary placement pursuant to section 8-806~~
4 and the parent has substantially neglected or wilfully refused to remedy
5 the circumstances that cause the child to be in an out-of-home placement.

6 (b) The child who is under three years of age has been ~~in an~~
7 ~~out-of-home placement~~ THE SUBJECT OF A DEPENDENCY ACTION for a cumulative
8 total period of six months or longer ~~pursuant to court order~~ and the
9 parent has substantially neglected or wilfully refused to remedy the
10 circumstances that cause the child to be in an out-of-home placement,
11 including refusal to participate in reunification services offered by the
12 department.

13 (c) The child has been ~~in an out-of-home placement~~ THE SUBJECT OF A
14 DEPENDENCY ACTION for a cumulative total period of fifteen months or
15 longer ~~pursuant to court order or voluntary placement pursuant to section~~
16 ~~8-806~~, the parent has been unable to remedy the circumstances that cause
17 the child to be ~~in an out-of-home placement~~ THE SUBJECT OF A DEPENDENCY
18 ACTION and there is a substantial likelihood that the parent will not be
19 capable of exercising proper and effective parental care and control in
20 the near future.

21 9. That the identity of the parent is unknown and continues to be
22 unknown following three months of diligent efforts to identify and locate
23 the parent.

24 10. That the parent has had parental rights to another child
25 terminated within the preceding two years for the same cause and is
26 currently unable to discharge parental responsibilities due to the same
27 cause.

28 11. That all of the following are true:

29 (a) The child was cared for in an out-of-home placement pursuant to
30 court order.

31 (b) The agency responsible for the care of the child made diligent
32 efforts to provide appropriate reunification services.

33 (c) The child, pursuant to court order, was returned to the legal
34 custody of the parent from whom the child had been removed.

35 (d) Within eighteen months after the child was returned, pursuant
36 to court order, the child was removed from that parent's legal custody,
37 the child is being cared for in an out-of-home placement under the
38 supervision of the juvenile court, the division or a licensed child
39 welfare agency and the parent is currently unable to discharge parental
40 responsibilities.

41 C. Evidence considered by the court pursuant to subsection B of
42 this section shall include any substantiated allegations of abuse or
43 neglect committed in another jurisdiction.

1 D. In considering the grounds for termination prescribed in
2 subsection B, paragraph 8 or 11 of this section, the court shall consider
3 the availability of reunification services to the parent and the
4 participation of the parent in these services.

5 E. In considering the grounds for termination prescribed in
6 subsection B, paragraph 8 of this section, the court shall not consider
7 the first sixty days of the initial out-of-home placement pursuant to
8 section 8-806 in the cumulative total period.

9 F. THE COURT SHALL CONSIDER THE BEST INTERESTS OF THE CHILD IN
10 APPLYING THE GROUNDS FOR TERMINATION PRESCRIBED IN SUBSECTION B OF THIS
11 SECTION.

12 ~~F.~~ G. The failure of an alleged parent who is not the child's
13 legal parent to take a test requested by the department or ordered by the
14 court to determine if the person is the child's natural parent is prima
15 facie evidence of abandonment unless good cause is shown by the alleged
16 parent for that failure.

17 Sec. 9. Section 8-807.01, Arizona Revised Statutes, is amended to
18 read:

19 8-807.01. Incidents involving fatality or near fatality;
20 definition

21 A. The department shall promptly provide DCS information to the
22 public regarding a case of child abuse, abandonment or neglect that has
23 resulted in a fatality or near fatality as follows:

24 1. The department shall provide preliminary information, including
25 at a minimum:

26 (a) In the case of a fatality, the name of the child who has died.

27 (b) The age, gender, county and general location of the residence
28 of the child who has suffered a fatality or a near fatality.

29 (c) The fact that a child suffered a fatality or near fatality as
30 the result of abuse, abandonment or neglect.

31 (d) The name, age and city, town or general location of the
32 residence of the alleged perpetrator, if available, unless the disclosure
33 would violate the privacy of victims of crime pursuant to article II,
34 section 2.1, Constitution of Arizona.

35 (e) Whether there have been reports, or any current or past cases,
36 of abuse, abandonment or neglect involving the child or the alleged
37 perpetrator.

38 (f) Actions taken by the department in response to the fatality or
39 near fatality of the child.

40 (g) A detailed synopsis of prior reports or cases of abuse,
41 abandonment or neglect involving the child or the alleged perpetrator and
42 of the actions taken or determinations made by the department in response
43 to these reports or cases.

1 (h) WHETHER THE ALLEGED PERPETRATOR WAS RECEIVING SUBSTANCE ABUSE
2 SERVICES, IF KNOWN.

3 (i) WHETHER, AT THE TIME OF THE FATALITY OR NEAR FATALITY, THE
4 ALLEGED PERPETRATOR WAS UNDER THE INFLUENCE OF ALCOHOL OR OF A DRUG OR
5 SUBSTANCE LISTED IN SECTION 13-3401 AND THE DRUG OR SUBSTANCE WAS NOT
6 ADMINISTERED TO THE ALLEGED PERPETRATOR AS PART OF MEDICAL TREATMENT BY A
7 HEALTH PROFESSIONAL.

8 2. On request by any person, the department shall promptly provide
9 additional DCS information to the requestor in a case of child abuse,
10 abandonment or neglect that has resulted in a fatality or a near fatality.
11 Before releasing additional DCS information, the department shall promptly
12 notify the county attorney of any decision to release that information,
13 and the county attorney shall promptly inform the department if it
14 believes the release would cause a specific, material harm to a criminal
15 investigation or prosecution. After consulting with the county attorney,
16 pursuant to paragraph 3 of this subsection, the department shall produce
17 to the requestor as much additional DCS information as promptly as
18 possible about a case of child abuse, abandonment or neglect that resulted
19 in a fatality or near fatality.

20 3. On request, the department shall continue to provide DCS
21 information promptly to the public about a fatality or near fatality
22 unless:

23 (a) After consultation with the county attorney, the county
24 attorney demonstrates that release of particular DCS information would
25 cause a specific, material harm to a criminal investigation or
26 prosecution.

27 (b) The release would violate section 8-807, subsection A or L or
28 the privacy of victims of crime pursuant to article II, section 2.1,
29 Constitution of Arizona.

30 4. If any person believes that the county attorney has failed to
31 demonstrate that release would cause a specific, material harm to a
32 criminal investigation or prosecution, that person may file an action in
33 superior court pursuant to title 39, chapter 1, article 2 and section
34 8-807, subsection J and request the court to review the DCS information in
35 camera to determine if disclosure should be ordered.

36 5. Within ninety days after the date of the DCS report for a case
37 involving a fatality or a near fatality, the department shall provide to
38 the public a summary report that:

39 (a) May include any actions taken by the department in response to
40 the case, any changes in policies or practices that have been made to
41 address any issues raised in the review of the case and any
42 recommendations for further changes in policies, practices, rules or
43 statutes to address those issues.

1 (b) Shall include the information prescribed in subsection B of
2 this section if the child was residing in the child's home and in
3 subsection C of this section if the child was placed in an out-of-home
4 placement.

5 B. If the summary report prescribed in subsection A, paragraph 5 of
6 this section involves a child who was residing in the child's home, the
7 summary report shall contain a summary of all of the following:

8 1. Whether services pursuant to this chapter were being provided to
9 the child, a member of the child's family or the person suspected of the
10 abuse or neglect at the time of the incident and the date of the last
11 contact before the incident between the entity providing the services and
12 the person receiving the services.

13 2. Whether the child, a member of the child's family or the person
14 suspected of the abuse or neglect was the subject of a DCS report at the
15 time of the incident.

16 3. All involvement of the child's parents and of the person
17 suspected of the abuse or neglect in a situation for which a DCS report
18 was made or in services provided pursuant to this chapter in the five
19 years preceding the incident involving a fatality or a near fatality.

20 4. Any investigation pursuant to a DCS report concerning the child,
21 a member of the child's family or the person suspected of the abuse or
22 neglect or services provided to the child or the child's family since the
23 date of the incident involving a fatality or a near fatality.

24 C. If the summary report prescribed in subsection A, paragraph 5 of
25 this section involves a child who was in out-of-home placement, the
26 summary report shall include the name of any agency the licensee was
27 licensed by, the licensing history of the out-of-home placement, including
28 the type of license held by the operator of the placement, the period for
29 which the placement has been licensed and a summary of all violations by
30 the licensee and any other actions by the licensee or an employee of the
31 licensee that constitute a substantial failure to protect and promote the
32 health, safety and welfare of a child.

33 D. For the purposes of this section, "near fatality" means an act
34 that, as certified by a physician, including the child's treating
35 physician, places a child in serious or critical condition.

36 Sec. 10. Section 8-810, Arizona Revised Statutes, is amended to
37 read:

38 8-810. Missing children; notification; entry into databases

39 A. If the department receives a report made pursuant to section
40 13-3620 or receives information during the course of providing services
41 that indicates a child is at risk of serious harm ~~and~~ OR the child's
42 location is unknown, the department shall notify the appropriate law
43 enforcement agency and provide the information required to make the record
44 entry into the Arizona crime information center and the national crime
45 information center missing person databases. This includes information

1 about the child and child's parent, guardian, ~~OR~~ OR custodian or A person of
2 interest.

3 B. The appropriate law enforcement agency shall immediately enter
4 the information provided by the department pursuant to subsection A of
5 this section into the Arizona crime information center and the national
6 crime information center missing person databases.

7 C. THE DEPARTMENT SHALL NOT PETITION FOR THE DISMISSAL OF A
8 DEPENDENCY ACTION CONCERNING A CHILD WHOSE LOCATION IS UNKNOWN BEFORE THE
9 CHILD BECOMES EIGHTEEN YEARS OF AGE.