

RESOLUTION OF THE
NAABIK'ÍYÁTI' COMMITTEE OF THE
NAVAJO NATION COUNCIL

23RD NAVAJO NATION COUNCIL---First Year 2015

AN ACTION

RELATING TO LAW AND ORDER, HEALTH, EDUCATION AND HUMAN SERVICES AND NAABIK'ÍYÁTI'; SUPPORTING H.B. 2101, A BILL INTRODUCED IN THE ARIZONA STATE LEGISLATURE ENTITLED "AN ACT AMENDING SECTIONS 13-3620 AND 41-1750; ARIZONA REVISED STATUTES; RELATING TO TRIBAL SOCIAL SERVICES AGENCIES"

WHEREAS:

1. The Health, Education and Social Services Committee of the Navajo Nation Council, among other duties and responsibilities, "review[s] and recommend[s]...[r]esolutions relating to social services, health, environmental health, education, veterans and veterans services, employment and labor." 2 N.N.C. § 401(B)(6)(a).
2. The Naabik'iyáti' Committee of the Navajo Nation Council, among other duties and responsibilities, "coordinate[s] all federal, county and state programs with other standing committees and branches of the Navajo Nation government to provide the most efficient delivery of services to the Navajo Nation. . 2 N.N.C. § 701(A)(4).
3. Under current state law of Arizona, there is a requirement that any person who reasonably believes that a minor has or is being abused or neglected to report such offense to a police officer or the Arizona Department of Child Safety. A.R.S. § 13-3620. Relative to this reporting requirement, the Honorable Brophy McGee, Arizona State Representative for the 28th District, has introduced legislation in the Arizona legislature to amend the law so that tribal law enforcement and social service agencies are also provided reports, at least in cases involving Indian Children. A copy of this proposed amendment, H.B. 2101, is attached as Exhibit "A." The new notice or reporting requirement recognizes the critical need for the cooperation of state officials with tribal governments in matters relative to Indian children.

NOW THEREFORE BE IT RESOLVED:

The Navajo Nation supports H.B. 2101, a bill introduced in the Arizona State Legislature entitled "AN ACT AMENDING SECTIONS 13-3620 AND 41-1750; ARIZONA REVISED STATUTES; RELATING TO TRIBAL SOCIAL SERVICES AGENCIES." Such proposed legislation is attached hereto as Exhibit "A."

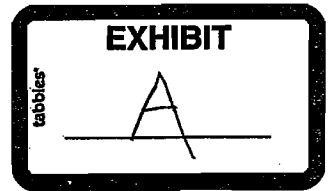
CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the 23rd Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 9 in favor, 0 oppose, 0 abstain, (Pursuant to 2 N.N.C §700 (D), Two members from each Committee), this 26th day of March, 2015.



Honorable LoRenzo C. Bates, Chairperson
Naabik'iyáti' Committee

Motion: Honorable Jonathan Perry
Second: Honorable Alton Joe Shepherd



REFERENCE TITLE: tribal social services agencies; information

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HB 2101

Introduced by
Representative Brophy McGee

AN ACT

AMENDING SECTIONS 13-3620 AND 41-1750, ARIZONA REVISED STATUTES; RELATING TO
TRIBAL SOCIAL SERVICES AGENCIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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
5 denial or deprivation of medical or surgical care or
6 nourishment of minors; medical records; exception;
7 violation; classification; definitions

8 A. Any person who reasonably believes that a minor is or has been the
9 victim of physical injury, abuse, child abuse, a reportable offense or
10 neglect that appears to have been inflicted on the minor by other than
11 accidental means or that is not explained by the available medical history as
12 being accidental in nature or who reasonably believes there has been a denial
13 or deprivation of necessary medical treatment or surgical care or nourishment
14 with the intent to cause or allow the death of an infant who is protected
15 under section 36-2281 shall immediately report or cause reports to be made of
16 this information to a peace officer, ~~or~~ to the department of child safety ~~OR~~
17 TO A TRIBAL LAW ENFORCEMENT OR SOCIAL SERVICES AGENCY FOR ANY INDIAN MINOR
18 WHO RESIDES ON AN INDIAN RESERVATION, except if the report concerns a person
19 who does not have care, custody or control of the minor, the report shall be
20 made to a peace officer only. A member of the clergy, a christian science
21 practitioner or a priest who has received a confidential communication or a
22 confession in that person's role as a member of the clergy, as a christian
23 science practitioner or as a priest in the course of the discipline enjoined
24 by the church to which the member of the clergy, the christian science
25 practitioner or the priest belongs may withhold reporting of the
26 communication or confession if the member of the clergy, the christian
27 science practitioner or the priest determines that it is reasonable and
28 necessary within the concepts of the religion. This exemption applies only
29 to the communication or confession and not to personal observations the
30 member of the clergy, the christian science practitioner or the priest may
31 otherwise make of the minor. For the purposes of this subsection, "person"
32 means:

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

37 2. Any peace officer, child welfare investigator, child safety worker,
38 member of the clergy, priest or christian science practitioner.

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

40 4. School personnel or domestic violence victim advocates who develop
41 the reasonable belief in the course of their employment.

42 5. Any other person who has responsibility for the care or treatment
43 of the minor.

44 B. A report is not required under this section either:

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

5 2. If a minor is of elementary school age, the physical injury occurs
6 accidentally in the course of typical playground activity during a school
7 day, occurs on the premises of the school that the minor attends and is
8 reported to the legal parent or guardian of the minor and the school
9 maintains a written record of the incident.

10 C. If a physician, psychologist or behavioral health professional
11 receives a statement from a person other than a parent, stepparent, guardian
12 or custodian of the minor during the course of providing sex offender
13 treatment that is not court ordered or that does not occur while the offender
14 is incarcerated in the state department of corrections or the department of
15 juvenile corrections, the physician, psychologist or behavioral health
16 professional may withhold the reporting of that statement if the physician,
17 psychologist or behavioral health professional determines it is reasonable
18 and necessary to accomplish the purposes of the treatment.

19 D. Reports shall be made immediately either electronically or by
20 telephone. The reports shall contain the following information, if known:

21 1. The names and addresses of the minor and the minor's parents or the
22 person or persons having custody of the minor.

23 2. The minor's age and the nature and extent of the minor's abuse,
24 child abuse, physical injury or neglect, including any evidence of previous
25 abuse, child abuse, physical injury or neglect.

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

28 E. A health care professional who is regulated pursuant to title 32
29 and who, after a routine newborn physical assessment of a newborn infant's
30 health status or following notification of positive toxicology screens of a
31 newborn infant, reasonably believes that the newborn infant may be affected
32 by the presence of alcohol or a drug listed in section 13-3401 shall
33 immediately report this information, or cause a report to be made, to the
34 department of child safety. For the purposes of this subsection, "newborn
35 infant" means a newborn infant who is under thirty days of age.

36 F. Any person other than one required to report or cause reports to be
37 made under subsection A of this section who reasonably believes that a minor
38 is or has been a victim of abuse, child abuse, physical injury, a reportable
39 offense or neglect may report the information to a peace officer or to the
40 department of child safety, except if the report concerns a person who does
41 not have care, custody or control of the minor, the report shall be made to a
42 peace officer only.

43 G. A person who has custody or control of medical records of a minor
44 for whom a report is required or authorized under this section shall make the
45 records, or a copy of the records, available to a peace officer, child

1 welfare investigator or child safety worker investigating the minor's
2 neglect, child abuse, physical injury or abuse on written request for the
3 records signed by the peace officer, child welfare investigator or child
4 safety worker. Records disclosed pursuant to this subsection are
5 confidential and may be used only in a judicial or administrative proceeding
6 or investigation resulting from a report required or authorized under this
7 section.

8 H. When reports are received by a peace officer, the officer shall
9 immediately notify the department of child safety. Notwithstanding any other
10 statute, when the department receives these reports, it shall immediately
11 notify a peace officer in the appropriate jurisdiction.

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

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

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

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

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

30 3. Investigation of a minor's child abuse, physical injury, neglect or
31 abuse conducted by a peace officer or the department of child safety.

32 L. In any civil or criminal litigation in which a child's neglect,
33 dependency, physical injury, abuse, child abuse or abandonment is an issue, a
34 member of the clergy, a christian science practitioner or a priest shall not,
35 without his consent, be examined as a witness concerning any confession made
36 to him in his role as a member of the clergy, a christian science
37 practitioner or a priest in the course of the discipline enjoined by the
38 church to which he belongs. This subsection does not discharge a member of
39 the clergy, a christian science practitioner or a priest from the duty to
40 report pursuant to subsection A of this section.

41 M. If psychiatric records are requested pursuant to subsection G of
42 this section, the custodian of the records shall notify the attending
43 psychiatrist, who may excise from the records, before they are made
44 available:

45 1. Personal information about individuals other than the patient.

1 2. Information regarding specific diagnosis or treatment of a
2 psychiatric condition, if the attending psychiatrist certifies in writing
3 that release of the information would be detrimental to the patient's health
4 or treatment.

5 N. If any portion of a psychiatric record is excised pursuant to
6 subsection M of this section, a court, on application of a peace officer,
7 child welfare investigator or child safety worker, may order that the entire
8 record or any portion of the record that contains information relevant to the
9 reported abuse, child abuse, physical injury or neglect be made available to
10 the peace officer, child welfare investigator or child safety worker
11 investigating the abuse, child abuse, physical injury or neglect.

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

15 P. For the purposes of this section:

16 1. "Abuse" has the same meaning prescribed in section 8-201.

17 2. "Child abuse" means child abuse pursuant to section 13-3623.

18 3. "Neglect" has the same meaning prescribed in section 8-201.

19 4. "Reportable offense" means any of the following:

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

22 (b) Surreptitious photographing, videotaping, filming or digitally
23 recording or viewing a minor pursuant to section 13-3019.

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

25 (d) Incest pursuant to section 13-3608.

26 (e) Unlawful mutilation pursuant to section 13-1214.

27 Sec. 2. Section 41-1750, Arizona Revised Statutes, is amended to read:

28 41-1750. Central state repository; department of public safety;
29 duties; funds; accounts; definitions

30 A. The department is responsible for the effective operation of the
31 central state repository in order to collect, store and disseminate complete
32 and accurate Arizona criminal history records and related criminal justice
33 information. The department shall:

34 1. Procure from all criminal justice agencies in this state accurate
35 and complete personal identification data, fingerprints, charges, process
36 control numbers and dispositions and such other information as may be
37 pertinent to all persons who have been charged with, arrested for, convicted
38 of or summoned to court as a criminal defendant for a felony offense or an
39 offense involving domestic violence as defined in section 13-3601 or a
40 violation of title 13, chapter 14 or title 28, chapter 4.

41 2. Collect information concerning the number and nature of offenses
42 known to have been committed in this state and of the legal steps taken in
43 connection with these offenses, such other information that is useful in the
44 study of crime and in the administration of criminal justice and all other
45 information deemed necessary to operate the statewide uniform crime reporting

1 program and to cooperate with the federal government uniform crime reporting
2 program.

3 3. Collect information concerning criminal offenses that manifest
4 evidence of prejudice based on race, color, religion, national origin, sexual
5 orientation, gender or disability.

6 4. Cooperate with the central state repositories in other states and
7 with the appropriate agency of the federal government in the exchange of
8 information pertinent to violators of the law.

9 5. Ensure the rapid exchange of information concerning the commission
10 of crime and the detection of violators of the law among the criminal justice
11 agencies of other states and of the federal government.

12 6. Furnish assistance to peace officers throughout this state in crime
13 scene investigation for the detection of latent fingerprints and in the
14 comparison of latent fingerprints.

15 7. Conduct periodic operational audits of the central state repository
16 and of a representative sample of other agencies that contribute records to
17 or receive criminal justice information from the central state repository or
18 through the Arizona criminal justice information system.

19 8. Establish and enforce the necessary physical and system safeguards
20 to ensure that the criminal justice information maintained and disseminated
21 by the central state repository or through the Arizona criminal justice
22 information system is appropriately protected from unauthorized inquiry,
23 modification, destruction or dissemination as required by this section.

24 9. Aid and encourage coordination and cooperation among criminal
25 justice agencies through the statewide and interstate exchange of criminal
26 justice information.

27 10. Provide training and proficiency testing on the use of criminal
28 justice information to agencies receiving information from the central state
29 repository or through the Arizona criminal justice information system.

30 11. Operate and maintain the Arizona automated fingerprint
31 identification system established by section 41-2411.

32 12. Provide criminal history record information to the fingerprinting
33 division for the purpose of screening applicants for fingerprint clearance
34 cards.

35 B. The director may establish guidelines for the submission and
36 retention of criminal justice information as deemed useful for the study or
37 prevention of crime and for the administration of criminal justice.

38 C. The chief officers of criminal justice agencies of this state or
39 its political subdivisions shall provide to the central state repository
40 fingerprints and information concerning personal identification data,
41 descriptions, crimes for which persons are arrested, process control numbers
42 and dispositions and such other information as may be pertinent to all
43 persons who have been charged with, arrested for, convicted of or summoned to
44 court as criminal defendants for felony offenses or offenses involving

1 domestic violence as defined in section 13-3601 or violations of title 13,
2 chapter 14 or title 28, chapter 4 that have occurred in this state.

3 D. The chief officers of law enforcement agencies of this state or its
4 political subdivisions shall provide to the department such information as
5 necessary to operate the statewide uniform crime reporting program and to
6 cooperate with the federal government uniform crime reporting program.

7 E. The chief officers of criminal justice agencies of this state or
8 its political subdivisions shall comply with the training and proficiency
9 testing guidelines as required by the department to comply with the federal
10 national crime information center mandates.

11 F. The chief officers of criminal justice agencies of this state or
12 its political subdivisions also shall provide to the department information
13 concerning crimes that manifest evidence of prejudice based on race, color,
14 religion, national origin, sexual orientation, gender or disability.

15 G. The director shall authorize the exchange of criminal justice
16 information between the central state repository, or through the Arizona
17 criminal justice information system, whether directly or through any
18 intermediary, only as follows:

19 1. With criminal justice agencies of the federal government, Indian
20 tribes, this state or its political subdivisions and other states, on request
21 by the chief officers of such agencies or their designated representatives,
22 specifically for the purposes of the administration of criminal justice and
23 for evaluating the fitness of current and prospective criminal justice
24 employees.

25 2. With any noncriminal justice agency - pursuant to a statute,
26 ordinance or executive order that specifically authorizes the noncriminal
27 justice agency to receive criminal history record information for the purpose
28 of evaluating the fitness of current or prospective licensees, employees,
29 contract employees or volunteers, on submission of the subject's fingerprints
30 and the prescribed fee. Each statute, ordinance, or executive order that
31 authorizes noncriminal justice agencies to receive criminal history record
32 information for these purposes shall identify the specific categories of
33 licensees, employees, contract employees or volunteers, and shall require
34 that fingerprints of the specified individuals be submitted in conjunction
35 with such requests for criminal history record information.

36 3. With the board of fingerprinting for the purpose of conducting good
37 cause exceptions pursuant to section 41-619.55 and central registry
38 exceptions pursuant to section 41-619.57.

39 4. With any individual for any lawful purpose on submission of the
40 subject of record's fingerprints and the prescribed fee.

41 5. With the governor, if the governor elects to become actively
42 involved in the investigation of criminal activity or the administration of
43 criminal justice in accordance with the governor's constitutional duty to
44 ensure that the laws are faithfully executed or as needed to carry out the
45 other responsibilities of the governor's office.

1 6. With regional computer centers that maintain authorized
2 computer-to-computer interfaces with the department, that are criminal
3 justice agencies or under the management control of a criminal justice agency
4 and that are established by a statute, ordinance or executive order to
5 provide automated data processing services to criminal justice agencies
6 specifically for the purposes of the administration of criminal justice or
7 evaluating the fitness of regional computer center employees who have access
8 to the Arizona criminal justice information system and the national crime
9 information center system.

10 7. With an individual who asserts a belief that criminal history
11 record information relating to the individual is maintained by an agency or
12 in an information system in this state that is subject to this section. On
13 submission of fingerprints, the individual may review this information for
14 the purpose of determining its accuracy and completeness by making
15 application to the agency operating the system. Rules adopted under this
16 section shall include provisions for administrative review and necessary
17 correction of any inaccurate or incomplete information. The review and
18 challenge process authorized by this paragraph is limited to criminal history
19 record information.

20 8. With individuals and agencies pursuant to a specific agreement with
21 a criminal justice agency to provide services required for the administration
22 of criminal justice pursuant to that agreement if the agreement specifically
23 authorizes access to data, limits the use of data to purposes for which given
24 and ensures the security and confidentiality of the data consistent with this
25 section.

26 9. With individuals and agencies for the express purpose of research,
27 evaluative or statistical activities pursuant to an agreement with a criminal
28 justice agency if the agreement specifically authorizes access to data,
29 limits the use of data to research, evaluative or statistical purposes and
30 ensures the confidentiality and security of the data consistent with this
31 section.

32 10. With the auditor general for audit purposes.

33 11. With central state repositories of other states for noncriminal
34 justice purposes for dissemination in accordance with the laws of those
35 states.

36 12. On submission of the fingerprint card, with the department of child
37 safety AND A TRIBAL SOCIAL SERVICES AGENCY to provide criminal history record
38 information on prospective adoptive parents for the purpose of conducting the
39 preadoption certification investigation under title 8, chapter 1, article 1
40 if the department of economic security is conducting the investigation, or
41 with an agency or a person appointed by the court, if the agency or person is
42 conducting the investigation. Information received under this paragraph
43 shall only be used for the purposes of the preadoption certification
44 investigation.

1 13. With the department of child safety, A TRIBAL SOCIAL SERVICES
2 AGENCY and the superior court for the purpose of evaluating the fitness of
3 custodians or prospective custodians of juveniles, including parents,
4 relatives and prospective guardians. Information received under this
5 paragraph shall only be used for the purposes of that evaluation. The
6 information shall be provided on submission of either:

7 (a) The fingerprint card.

8 (b) The name, date of birth and social security number of the person.

9 14. On submission of a fingerprint card, provide criminal history
10 record information to the superior court for the purpose of evaluating the
11 fitness of investigators appointed under section 14-5303 or 14-5407,
12 guardians appointed under section 14-5206 or 14-5304 or conservators
13 appointed under section 14-5401.

14 15. With the supreme court to provide criminal history record
15 information on prospective fiduciaries pursuant to section 14-5651.

16 16. With the department of juvenile corrections to provide criminal
17 history record information pursuant to section 41-2814.

18 17. On submission of the fingerprint card, provide criminal history
19 record information to the Arizona peace officer standards and training board
20 or a board certified law enforcement academy to evaluate the fitness of
21 prospective cadets.

22 18. With the internet sex offender web site database established
23 pursuant to section 13-3827.

24 19. With licensees of the United States nuclear regulatory commission
25 for the purpose of determining whether an individual should be granted
26 unescorted access to the protected area of a commercial nuclear generating
27 station on submission of the subject of record's fingerprints and the
28 prescribed fee.

29 20. With the state board of education for the purpose of evaluating the
30 fitness of a certificated teacher or administrator or an applicant for a
31 teaching or an administrative certificate provided that the state board of
32 education or its employees or agents have reasonable suspicion that the
33 certificated person engaged in conduct that would be a criminal violation of
34 the laws of this state or was involved in immoral or unprofessional conduct
35 or that the applicant engaged in conduct that would warrant disciplinary
36 action if the applicant were certificated at the time of the alleged conduct.
37 The information shall be provided on the submission of either:

38 (a) The fingerprint card.

39 (b) The name, date of birth and social security number of the person.

40 21. With each school district and charter school in this state. The
41 state board of education and the state board for charter schools shall
42 provide the department of public safety with a current list of e-mail
43 addresses for each school district and charter school in this state and shall
44 periodically provide the department of public safety with updated e-mail
45 addresses. If the department of public safety is notified that a person who

1 is required to have a fingerprint clearance card to be employed by or to
2 engage in volunteer activities at a school district or charter school has
3 been arrested for or convicted of an offense listed in section 41-1758.03,
4 subsection B or has been arrested for or convicted of an offense that amounts
5 to unprofessional conduct under section 15-550, the department of public
6 safety shall notify each school district and charter school in this state
7 that the person's fingerprint clearance card has been suspended or revoked.

8 22. With A TRIBAL SOCIAL SERVICES AGENCY AND the department of child
9 safety as provided by law, which currently is the Adam Walsh child protection
10 and safety act of 2006 (42 United States Code section 16961), for the
11 purposes of investigating or responding to reports of child abuse, neglect or
12 exploitation. Information received pursuant to this paragraph from the
13 national crime information center, the interstate identification index and
14 the Arizona criminal justice information system network shall only be used
15 for the purposes of investigating or responding as prescribed in this
16 paragraph. The information shall be provided on submission to the department
17 of public safety of either:

18 (a) The fingerprints of the person being investigated.

19 (b) The name, date of birth and social security number of the person.

20 23. With a nonprofit organization that interacts with children or
21 vulnerable adults for the lawful purpose of evaluating the fitness of all
22 current and prospective employees, contractors and volunteers of the
23 organization. The criminal history record information shall be provided on
24 submission of the applicant fingerprint card and the prescribed fee.

25 24. With the superior court for the purpose of determining an
26 individual's eligibility for substance abuse and treatment courts in a family
27 or juvenile case.

28 H. The director shall adopt rules necessary to execute this section.

29 I. The director, in the manner prescribed by law, shall remove and
30 destroy records that the director determines are no longer of value in the
31 detection or prevention of crime.

32 J. The director shall establish a fee in an amount necessary to cover
33 the cost of federal noncriminal justice fingerprint processing for criminal
34 history record information checks that are authorized by law for noncriminal
35 justice employment, licensing or other lawful purposes. An additional fee
36 may be charged by the department for state noncriminal justice fingerprint
37 processing. Fees submitted to the department for state noncriminal justice
38 fingerprint processing are not refundable.

39 K. The director shall establish a fee in an amount necessary to cover
40 the cost of processing copies of department reports, eight by ten inch black
41 and white photographs or eight by ten inch color photographs of traffic
42 accident scenes.

43 L. Except as provided in subsection O of this section, each agency
44 authorized by this section may charge a fee, in addition to any other fees
45 prescribed by law, in an amount necessary to cover the cost of state and

1 federal noncriminal justice fingerprint processing for criminal history
2 record information checks that are authorized by law for noncriminal justice
3 employment, licensing or other lawful purposes.

4 M. A fingerprint account within the records processing fund is
5 established for the purpose of separately accounting for the collection and
6 payment of fees for noncriminal justice fingerprint processing by the
7 department. Monies collected for this purpose shall be credited to the
8 account, and payments by the department to the United States for federal
9 noncriminal justice fingerprint processing shall be charged against the
10 account. Monies in the account not required for payment to the United States
11 shall be used by the department in support of the department's noncriminal
12 justice fingerprint processing duties. At the end of each fiscal year, any
13 balance in the account not required for payment to the United States or to
14 support the department's noncriminal justice fingerprint processing duties
15 reverts to the state general fund.

16 N. A records processing fund is established for the purpose of
17 separately accounting for the collection and payment of fees for department
18 reports and photographs of traffic accident scenes processed by the
19 department. Monies collected for this purpose shall be credited to the fund
20 and shall be used by the department in support of functions related to
21 providing copies of department reports and photographs. At the end of each
22 fiscal year, any balance in the fund not required for support of the
23 functions related to providing copies of department reports and photographs
24 reverts to the state general fund.

25 O. The department of child safety may pay from appropriated monies the
26 cost of federal fingerprint processing or federal criminal history record
27 information checks that are authorized by law for employees and volunteers of
28 the department, guardians pursuant to section 8-453, subsection A, paragraph
29 ~~7~~ 6, the licensing of foster parents or the certification of adoptive
30 parents.

31 P. The director shall adopt rules that provide for:

32 1. The collection and disposition of fees pursuant to this section.

33 2. The refusal of service to those agencies that are delinquent in
34 paying these fees.

35 Q. The director shall ensure that the following limitations are
36 observed regarding dissemination of criminal justice information obtained
37 from the central state repository or through the Arizona criminal justice
38 information system:

39 1. Any criminal justice agency that obtains criminal justice
40 information from the central state repository or through the Arizona criminal
41 justice information system assumes responsibility for the security of the
42 information and shall not secondarily disseminate this information to any
43 individual or agency not authorized to receive this information directly from
44 the central state repository or originating agency.

1 2. Dissemination to an authorized agency or individual may be
2 accomplished by a criminal justice agency only if the dissemination is for
3 criminal justice purposes in connection with the prescribed duties of the
4 agency and not in violation of this section.

5 3. Criminal history record information disseminated to noncriminal
6 justice agencies or to individuals shall be used only for the purposes for
7 which it was given. Secondary dissemination is prohibited unless otherwise
8 authorized by law.

9 4. The existence or nonexistence of criminal history record
10 information shall not be confirmed to any individual or agency not authorized
11 to receive the information itself.

12 5. Criminal history record information to be released for noncriminal
13 justice purposes to agencies of other states shall only be released to the
14 central state repositories of those states for dissemination in accordance
15 with the laws of those states.

16 6. Criminal history record information shall be released to
17 noncriminal justice agencies of the federal government pursuant to the terms
18 of the federal security clearance information act (P.L. 99-169).

19 R. This section and the rules adopted under this section apply to all
20 agencies and individuals collecting, storing or disseminating criminal
21 justice information processed by manual or automated operations if the
22 collection, storage or dissemination is funded in whole or in part with
23 monies made available by the law enforcement assistance administration after
24 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
25 all agencies that interact with or receive criminal justice information from
26 or through the central state repository and through the Arizona criminal
27 justice information system.

28 S. This section does not apply to criminal history record information
29 contained in:

30 1. Posters, arrest warrants, announcements or lists for identifying or
31 apprehending fugitives or wanted persons.

32 2. Original records of entry such as police blotters maintained by
33 criminal justice agencies, compiled chronologically and required by law or
34 long-standing custom to be made public if these records are organized on a
35 chronological basis.

36 3. Transcripts or records of judicial proceedings if released by a
37 court or legislative or administrative proceedings.

38 4. Announcements of executive clemency or pardon.

39 5. Computer databases, other than the Arizona criminal justice
40 information system, that are specifically designed for community notification
41 of an offender's presence in the community pursuant to section 13-3825 or for
42 public informational purposes authorized by section 13-3827.

43 T. Nothing in this section prevents a criminal justice agency from
44 disclosing to the public criminal history record information that is
45 reasonably contemporaneous to the event for which an individual is currently

1 within the criminal justice system, including information noted on traffic
2 accident reports concerning citations, blood alcohol tests or arrests made in
3 connection with the traffic accident being investigated.

4 U. In order to ensure that complete and accurate criminal history
5 record information is maintained and disseminated by the central state
6 repository:

7 1. The arresting authority shall take legible ten-print fingerprints
8 of all persons who are arrested for offenses listed in subsection C of this
9 section including persons who are arrested and released pursuant to section
10 13-3903, subsection C. The arresting authority may transfer an arrestee to a
11 booking agency for ten-print fingerprinting. The arresting authority or
12 booking agency shall obtain a process control number and provide to the
13 person fingerprinted a document that indicates proof of the fingerprinting
14 and that informs the person that the document must be presented to the court.

15 2. The mandatory fingerprint compliance form shall contain the
16 following information:

17 (a) Whether ten-print fingerprints have been obtained from the person.

18 (b) Whether a process control number was obtained.

19 (c) The offense or offenses for which the process control number was
20 obtained.

21 (d) Any report number of the arresting authority.

22 (e) Instructions on reporting for ten-print fingerprinting, including
23 available times and locations for reporting for ten-print fingerprinting.

24 (f) Instructions that direct the person to provide the form to the
25 court at the person's next court appearance.

26 3. Within ten days after a person is fingerprinted, the arresting
27 authority or agency that took the fingerprints shall forward the fingerprints
28 to the department in the manner or form required by the department.

29 4. On the issuance of a summons for a defendant who is charged with an
30 offense listed in subsection C of this section, the summons shall direct the
31 defendant to provide ten-print fingerprints to the appropriate law
32 enforcement agency.

33 5. At the initial appearance or on the arraignment of a summoned
34 defendant who is charged with an offense listed in subsection C of this
35 section, if the person does not present a completed mandatory fingerprint
36 compliance form to the court or if the court has not received the process
37 control number, the court shall order that within twenty calendar days the
38 defendant be ten-print fingerprinted at a designated time and place by the
39 appropriate law enforcement agency.

40 6. If the defendant fails to present a completed mandatory fingerprint
41 compliance form or if the court has not received the process control number,
42 the court, on its own motion, may remand the defendant into custody for
43 ten-print fingerprinting. If otherwise eligible for release, the defendant
44 shall be released from custody after being ten-print fingerprinted.

1 7. In every criminal case in which the defendant is incarcerated or
2 fingerprinted as a result of the charge, an originating law enforcement
3 agency or prosecutor, within forty days of the disposition, shall advise the
4 central state repository of all dispositions concerning the termination of
5 criminal proceedings against an individual arrested for an offense specified
6 in subsection C of this section. This information shall be submitted on a
7 form or in a manner required by the department.

8 8. Dispositions resulting from formal proceedings in a court having
9 jurisdiction in a criminal action against an individual who is arrested for
10 an offense specified in subsection C of this section or section 8-341,
11 subsection V, paragraph 3 shall be reported to the central state repository
12 within forty days of the date of the disposition. This information shall be
13 submitted on a form or in a manner specified by rules approved by the supreme
14 court.

15 9. The state department of corrections or the department of juvenile
16 corrections, within forty days, shall advise the central state repository
17 that it has assumed supervision of a person convicted of an offense specified
18 in subsection C of this section or section 8-341, subsection V, paragraph 3.
19 The state department of corrections or the department of juvenile corrections
20 shall also report dispositions that occur thereafter to the central state
21 repository within forty days of the date of the dispositions. This
22 information shall be submitted on a form or in a manner required by the
23 department of public safety.

24 10. Each criminal justice agency shall query the central state
25 repository before dissemination of any criminal history record information to
26 ensure the completeness of the information. Inquiries shall be made before
27 any dissemination except in those cases in which time is of the essence and
28 the repository is technically incapable of responding within the necessary
29 time period. If time is of the essence, the inquiry shall still be made and
30 the response shall be provided as soon as possible.

31 V. The director shall adopt rules specifying that any agency that
32 collects, stores or disseminates criminal justice information that is subject
33 to this section shall establish effective security measures to protect the
34 information from unauthorized access, disclosure, modification or
35 dissemination. The rules shall include reasonable safeguards to protect the
36 affected information systems from fire, flood, wind, theft, sabotage or other
37 natural or man-made hazards or disasters.

38 W. The department shall make available to agencies that contribute to,
39 or receive criminal justice information from, the central state repository or
40 through the Arizona criminal justice information system a continuing training
41 program in the proper methods for collecting, storing and disseminating
42 information in compliance with this section.

43 X. Nothing in this section creates a cause of action or a right to
44 bring an action including an action based on discrimination due to sexual
45 orientation.

1 Y. For the purposes of this section:

2 1. "Administration of criminal justice" means performance of the
3 detection, apprehension, detention, pretrial release, posttrial release,
4 prosecution, adjudication, correctional supervision or rehabilitation of
5 criminal offenders. Administration of criminal justice includes enforcement
6 of criminal traffic offenses and civil traffic violations, including parking
7 violations, when performed by a criminal justice agency. Administration of
8 criminal justice also includes criminal identification activities and the
9 collection, storage and dissemination of criminal history record information.

10 2. "Administrative records" means records that contain adequate and
11 proper documentation of the organization, functions, policies, decisions,
12 procedures and essential transactions of the agency and that are designed to
13 furnish information to protect the rights of this state and of persons
14 directly affected by the agency's activities.

15 3. "Arizona criminal justice information system" or "system" means the
16 statewide information system managed by the director for the collection,
17 processing, preservation, dissemination and exchange of criminal justice
18 information and includes the electronic equipment, facilities, procedures and
19 agreements necessary to exchange this information.

20 4. "Central state repository" means the central location within the
21 department for the collection, storage and dissemination of Arizona criminal
22 history records and related criminal justice information.

23 5. "Criminal history record information" and "criminal history record"
24 means information that is collected by criminal justice agencies on
25 individuals and that consists of identifiable descriptions and notations of
26 arrests, detentions, indictments and other formal criminal charges, and any
27 disposition arising from those actions, sentencing, formal correctional
28 supervisory action and release. Criminal history record information and
29 criminal history record do not include identification information to the
30 extent that the information does not indicate involvement of the individual
31 in the criminal justice system or information relating to juveniles unless
32 they have been adjudicated as adults.

33 6. "Criminal justice agency" means either:

34 (a) A court at any governmental level with criminal or equivalent
35 jurisdiction, including courts of any foreign sovereignty duly recognized by
36 the federal government.

37 (b) A government agency or subunit of a government agency that is
38 specifically authorized to perform as its principal function the
39 administration of criminal justice pursuant to a statute, ordinance or
40 executive order and that allocates more than fifty ~~per cent~~ PERCENT of its
41 annual budget to the administration of criminal justice. This subdivision
42 includes agencies of any foreign sovereignty duly recognized by the federal
43 government.

44 7. "Criminal justice information" means information that is collected
45 by criminal justice agencies and that is needed for the performance of their

1 legally authorized and required functions, such as criminal history record
2 information, citation information, stolen property information, traffic
3 accident reports, wanted persons information and system network log searches.
4 Criminal justice information does not include the administrative records of a
5 criminal justice agency.

6 8. "Disposition" means information disclosing that a decision has been
7 made not to bring criminal charges or that criminal proceedings have been
8 concluded or information relating to sentencing, correctional supervision,
9 release from correctional supervision, the outcome of an appellate review of
10 criminal proceedings or executive clemency.

11 9. "Dissemination" means the written, oral or electronic communication
12 or transfer of criminal justice information to individuals and agencies other
13 than the criminal justice agency that maintains the information.
14 Dissemination includes the act of confirming the existence or nonexistence of
15 criminal justice information.

16 10. "Management control":

17 (a) Means the authority to set and enforce:

18 (i) Priorities regarding development and operation of criminal justice
19 information systems and programs.

20 (ii) Standards for the selection, supervision and termination of
21 personnel involved in the development of criminal justice information systems
22 and programs and in the collection, maintenance, analysis and dissemination
23 of criminal justice information.

24 (iii) Policies governing the operation of computers, circuits and
25 telecommunications terminals used to process criminal justice information to
26 the extent that the equipment is used to process, store or transmit criminal
27 justice information.

28 (b) Includes the supervision of equipment, systems design, programming
29 and operating procedures necessary for the development and implementation of
30 automated criminal justice information systems.

31 11. "Process control number" means the Arizona automated fingerprint
32 identification system number that attaches to each arrest event at the time
33 of fingerprinting and that is assigned to the arrest fingerprint card,
34 disposition form and other pertinent documents.

35 12. "Secondary dissemination" means the dissemination of criminal
36 justice information from an individual or agency that originally obtained the
37 information from the central state repository or through the Arizona criminal
38 justice information system to another individual or agency.

39 13. "Sexual orientation" means consensual homosexuality or
40 heterosexuality.

41 14. "Subject of record" means the person who is the primary subject of
42 a criminal justice record.



HOUSE OF REPRESENTATIVES

HB 2101

tribal social services agencies; information

Sponsor: Representative Brophy McGee

X Committee on Children and Family Affairs

Caucus and COW

House Engrossed

OVERVIEW

HB 2101 expands the duty to report abuse or neglect to include reporting to a tribal law enforcement or social service agency for any Indian minor who lives on a reservation. Further, HB 2101 gives tribal social service agencies access to the Central State Repository (Repository) or the Arizona Criminal Justice Information System (ADJIS), for specified purposes.

HISTORY

Arizona Revised Statutes (A.R.S.) § 13-3620 requires that any person who reasonably believes that a minor is or has been a victim of physical injury, abuse, child abuse, a reportable offense or neglect must immediately report this information to a peace officer or to the Arizona Department of Child Safety (DCS). If the report concerns a person who does not have care, custody or control of the minor, the report must be made only to a peace officer. Persons required to report include medical practitioners, any peace officer, child welfare investigator, child safety worker, member of the clergy, priest or Christian science practitioner, the parent, stepparent or guardian of the minor, school personnel or domestic violence advocates and any other person who has responsibility for the care or treatment of the minor.

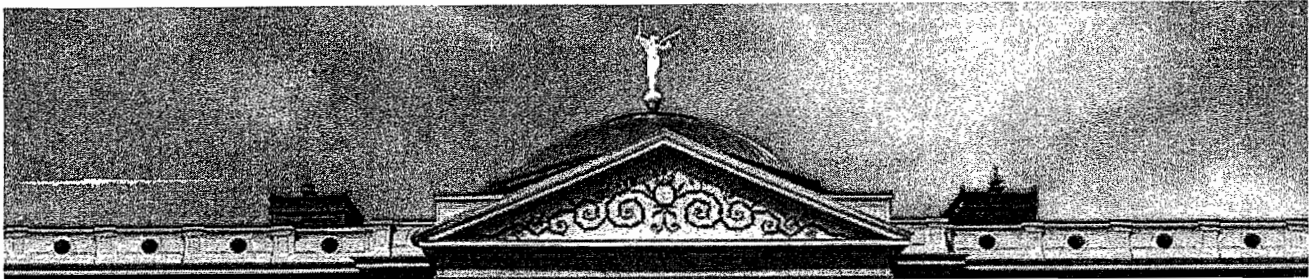
A.R.S. § 41-1750 mandates that the Arizona Department of Public Safety (DPS) is responsible for the operation of the Repository in order to collect, store and disseminate complete and accurate Arizona criminal history records and related criminal justice information. Statute authorizes the director of DPS to exchange criminal justice information between the Repository or through the ADJIS to various state and federal agencies and authorized individuals.

PROVISIONS

1. Expands the duty to report abuse or neglect to include reporting to a tribal law enforcement or social service agency for any Indian minor who lives on a reservation.
2. Gives tribal social service agencies access to the Repository or the ADJIS on the submission of a fingerprint card to provide criminal history record information on prospective adoptive parents.
3. Authorizes tribal social service agencies to access the Repository or the ADJIS for the purpose of evaluating the fitness of custodians or prospective custodians of juveniles.
4. Allows tribal social service agencies to access the Repository or the ADJIS for the purposes of investigating or responding to reports of child abuse, neglect or exploitation.
5. Makes technical changes.

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Kate Brophy McGee
Republican **District 28**
House of Representatives
1700 W. Washington
Room 304
Phoenix, AZ 85007
Phone Number: (602) 926-4486
Fax Number: (602) 417-3170



Email Address: kbrophymcgee@azleg.gov

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District Information

[Adam Driggs \(Senate\)](#)
[Eric Meyer \(House of Representatives\)](#)
[United State Congress](#)

Personal Information:

Home City: Phoenix
Occupation: Community Leader
Member Since: 2011

Representative Kate Brophy McGee is serving her third term in the Arizona House of Representatives, representing Legislative District 28. The district includes North Central Phoenix, Biltmore, Arcadia and the Town of Paradise Valley.

Representative Brophy McGee is a third generation Arizonan, born into a ranching family and raised in southern Arizona. She graduated from the University of Arizona and worked as a community banker lending to small businesses. She saw firsthand how hard business owners work to create the jobs that drive Arizona's economy.

Representative Brophy McGee married her husband, Bob McGee, 30 years ago, and they have lived in their North Central/Sunnyslope neighborhood ever since. All three of their sons attended Phoenix public schools and graduated from Sunnyslope High School. Her oldest son is a graduate of the University of Arizona Law School and is an attorney in Phoenix. Her middle son is a graduate of Northern Arizona University and her youngest son is a graduate of Loyola Marymount University in Los Angeles, California. Both the younger sons are planning on attending graduate school.

Representative Brophy McGee is Chairman of the House Banking & Financial Services Committee and Vice Chairman of the House Children & Family Affairs Committee. Representative Brophy McGee serves as the co-chair of the Joint Legislative Child Protective Services Oversight Committee. She is a member of the Child Help Arizona Board and the Flinn Foundation's Bio Sciences Roadmap Steering Committee.

Following the discovery of over 6,000 cases of child abuse that went uninvestigated by Child Protective Services, Representative Brophy McGee was tapped to serve on key gubernatorial and legislative committees tasked with reforming the troubled agency. She sponsored the legislation establishing the Department of Child Safety as a stand-alone agency during an historic May, 2014 Special Session of the legislature.

Prior to her election to the legislature, Representative Brophy McGee served nearly a decade on the Washington Elementary School Board, including four terms as Board President. She also served six years on the Arizona School Facilities Board, including one term as Chairman. She continues her many community-based volunteer activities in addition to her legislative duties.

As a mother, banker and community leader, Representative Brophy McGee is committed to working patiently and persistently with her constituents, colleagues and Arizona's leaders to make our great state even better.

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Banking and Financial Services	Chairman	Click Here	Click Here
Children and Family Affairs	Vice-Chairman	Click Here	Click Here

[top](#)**Sponsored Bills**

Bill Number ▼	Sponsor Type ▼	Short Title ▼	Final Vote
HB2021	P*	adult protective services; information online	
HB2022	P*	technical correction; home health agencies	
HB2023	P*	state parks board; technical correction	
HB2024	P*	technical correction; health services; fees	
HB2025	P*	technical correction; attorney general opinions	
HB2026	P*	bank deposits; technical correction	
HB2027	P*	technical correction; open pit mining	
HB2028	P*	technical correction; state buildings; defibrillators	
HB2029	P*	technical correction; Arbor day	
HB2030	P*	technical correction; bingo license; transfer	
HB2031	P*	technical correction; notaries public; conduct	
HB2096	P*	board of appraisal; complaints; disclosure	
HB2097	P*	loan originators; advance fee loans	
HB2098	P*	department of child safety	
HB2099	P*	adoption; definitions; agency records	
HB2100	P*	DCS employee personal information; confidentiality	
HB2101	P*	tribal social services agencies; information	
HB2102	P*	children; chronic illness; physical disability	
HB2157	C	Native Americans; delayed birth certificates	
HB2162	C	fire suppression; federal reimbursement	
HB2166	P*	DCS information; egregious abuse; neglect	
HB2167	P*	appropriation; client services trust fund	
HB2168	P*	public agency pooling; unemployment insurance	
HB2169	P*	loan originator licensing	
HB2170	P*	lifespan respite care program; appropriation	
HB2171	P*	lifespan respite care; program termination	
HB2172	P*	motor vehicle liability insurance requirements	
HB2213	C	inspections; audits; notice; rights	
HB2217	P	job training fund; vocational rehabilitation	
HB2275	C	income tax form; Alzheimer's research	
HB2323	C	Arizona job finance bonds	
HB2373	P*	AHCCCS; orthotics	
HB2374	P*	wrongful death actions; disqualified party	
HB2375	P*	preliminary protective hearings; review hearings	
HB2426	P	additional classroom time for kindergartners	
HB2488	C	housing assistance; seriously mentally ill	
HB2490	C	sexually violent persons; reimbursement; repeal	
HB2491	C	hospitals; community health centers; transactions	
HB2492	P	AHCCCS coverage; ALTCS; medical services	
HB2493	P	indoor tanning; minors; restricted use	
HB2494	P	colorectal cancer; screening; treatment	
HB2495	P	medically underserved areas; loan repayment	
HB2499	P	DHS; prevention education grants; appropriations	
HB2517	P	internet crimes against children; fund	
HB2553	C	human trafficking victim; vacating conviction	
HB2574	C	ADE; appropriation; geographic literacy	
HB2592	C	justice of the peace; residency	
HB2640	P*	dependency; households; domestic violence	
HCR2034	P*	financial literacy month	
SB1068	P	additional classroom time for kindergartners	
SCR1010	P	Senator Chester Crandell; death resolution	

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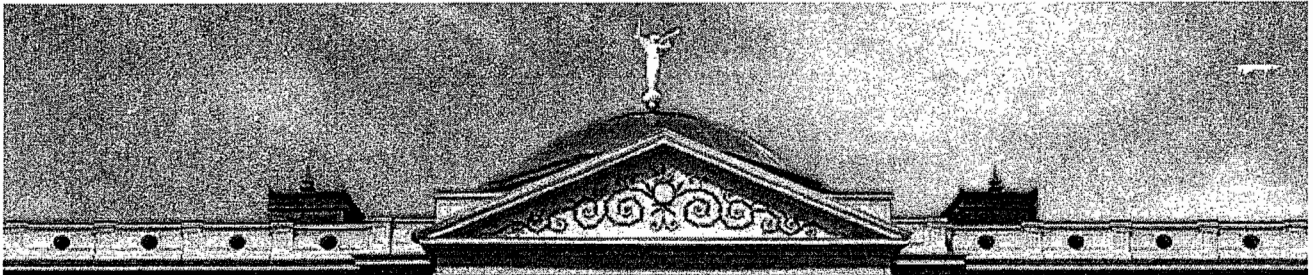
P* = Prime Sponsor, P = Prime Sponsor, C = Co-Sponsor

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BILL STATUS OVERVIEW

HB2101

SPONSORS: BROPHY MCGEE P

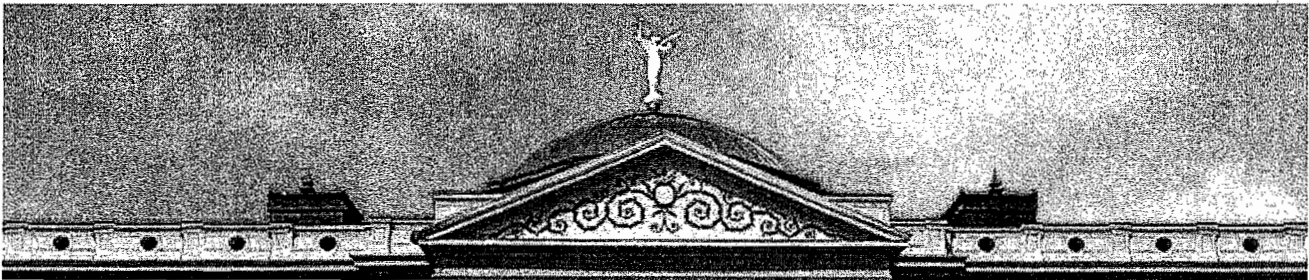
TITLE: tribal social services agencies; information

HOUSE FIRST READ: 01/20/15

COMMITTEES: ASSIGNED COMMITTEES ACTION

Vote Detail 01/20/15 CFA 02/09/15 (8-0-0-1-0) DP
 01/20/15 RULES

HOUSE SECOND READ: 01/21/15



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HB2101
tribal social services agencies; information

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**LAW AND ORDER COMMITTEE
23rd NAVAJO NATION COUNCIL**

FIRST YEAR 2015

COMMITTEE REPORT

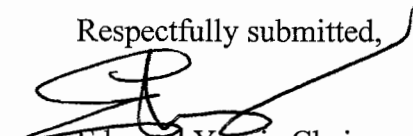
Mr. Speaker,

The **LAW AND ORDER COMMITTEE** to whom has been assigned:

Legislation # 0065-15: An Action relating to Law and Order, Health, Education and Human Services and NAABIK'IYATI'; Supporting H.B. 2101, A Bill introduce in the Arizona State Legislature Entitled "An Act Amending Sections 13-3620 and 41-1750, Arizona Revised Statues; Relating to Tribal Social Services Agencies"

and thereafter the matter will be referred to **HEALTH, EDCUATION AND HUMAN SERVICES Committee.**

Respectfully submitted,



Edmund Yazzie Chairperson
Law and Order Committee of the
23nd Navajo Nation Council

Date: March 9th, 2015

Motion: Honorable Jonathan Perry

Second: Honorable Raymond Smith, Jr.

VOTE: 3-0

NOTE: A quorum of 4 members were present

COMMITTEE REPORT

THE HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE OF THE NAVAJO NATION COUNCIL to whom has been assigned;

LEGISLATION NO. 0065-15

An Action Relating to Law And Order, Health, Education and Human Services And Naabik'iyati; Supporting H.B. 2101, A Bill Introduced In The Arizona State Legislature Entitled "An Act Amending Sections 13-3620 And 41-1750; Arizona Revised Statutes; Relating To Tribal Social Services Agencies"

Has had under consideration and report the same with the recommendation that it **PASS** with one (1) amendment and no directive;

Amendment One (1): Attached Division of Social Services Letter.

And therefore referred the same to the **NAABIK' IYATI COMMITTEE OF THE NAVAJO NATION COUNCIL**

NMBH
Honorable Norman M. Begay, Vice-Chairperson
Health, Education and Human Services Committee

Dated: March 17, 2015

Main Motion

Motion: by: Honorable Amber Crotty

Seconded by: Honorable Tuchoney Slim, Jr.

Vote: 3 in favor: 0 Opposed and 0 Abstain

THE NAVAJO NATION



BEN SHELLY PRESIDENT
REX LEE JIM VICE PRESIDENT

March 17, 2015

Honorable Jonathan Hale, Chairperson
Health, Education & Human Services Committee
Navajo Nation Council
Post Office Box 3390
Window Rock, Arizona 86515

RE: Arizona House Bill 2101

Honorable Mr. Hale,

The Navajo Division of Social Services (NDSS) in coordination with the Office of the President and Vice President has reviewed and supports Arizona House Bill 2101. This bill expands the duty to report abuse or neglect to a tribal law enforcement or social service agency for any Native American minor who resides on a reservation. In addition, HB 2101 gives tribal social services agencies access to the Central State Repository or the Arizona Criminal Justice Information System (ADJIS), for specified purposes.

The bill language is also in line with Alchini Bi Beehaz annii Act of 2011, Title 9 Domestic Relations, Chapter 11 Navajo Nation Children's Code, Subchapter 2 Dependency Proceedings, Section 1117, which stipulates how cases are reported on the Navajo Nation.

In addition we would like to thank Representative Brophy McGree for sponsoring the bill and the Committee on Children and Family Affairs for supporting the bill.

Thank you for your advocacy and your leadership is greatly appreciated. If you have any questions, please do not hesitate to contact me (928) 871-6851. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sharon Begay-McCabe".

Sharon Begay-McCabe, MSW, Division Director
The Navajo Nation
Division of Social Services

xc: file

rt