REFERENCE TITLE: CPS information

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SB 1395

Introduced by
Senator Paton

AN ACT

AMENDING SECTION 8-525, ARIZONA REVISED STATUTES; RELATING TO CHILD WELFARE AND PLACEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 8-525, Arizona Revised Statutes, is amended to read:

8-525. Open court proceedings; closure; records

A. Except as otherwise provided pursuant to this section, court proceedings relating to dependent children, permanent guardianship and termination of parental rights are open to the public.

B. At the first hearing in any dependency, permanent guardianship or termination of parental rights proceeding, the court shall ask the parties if there are any reasons the proceeding should be closed. For good cause shown, the court may order any proceeding to be closed to the public. In considering whether to close the proceeding to the public, the court shall consider:

1. Whether doing so is in the child's best interests.

2. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person.

3. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the court determines need protection.

4. Whether all parties have agreed to allow the proceeding to be open.

5. If the child is at least twelve years of age and a party to the proceeding, the child's wishes.

6. Whether an open proceeding could cause specific material harm to a criminal investigation.

C. Subject to the requirements of subsection B of this section and section 8-807, subsection F, paragraph 2, a court proceeding relating to child abuse, abandonment or neglect that has resulted in a fatality or near fatality is open to the public.

D. At the beginning of a hearing that is open to the public, the court shall do the following:

1. Admonish all attendees that they are prohibited from disclosing any information that may identify the child and the child’s siblings, parents, guardians and caregivers, and any other person whose identity will be disclosed during the proceeding.

2. Explain contempt of court to all attendees and the possible consequences of violating an order of the court.

E. A person who remains in the court after the admonition pursuant to subsection D of this section must abide by the court's order prohibiting disclosure of that information. The court may find a person who fails to do so in contempt of court.

F. The court may close an open proceeding at any time for good cause shown and after considering the factors prescribed in subsection B of this section.

G. If a proceeding ~~relating to child abuse, abandonment or neglect that has resulted in a fatality or near fatality~~ has been closed by the

court, any person may subsequently request that the court reopen a proceeding or a specific hearing to the public ~~or request a transcript be made of any previously closed proceeding~~. In ruling on this request, the court shall consider the factors prescribed in subsection B of this section.

H. IF A PROCEEDING RELATING TO CHILD ABUSE, ABANDONMENT OR NEGLECT THAT HAS RESULTED IN A FATALITY OR NEAR FATALITY HAS BEEN CLOSED BY THE COURT, ANY PERSON MAY SUBSEQUENTLY REQUEST THAT A TRANSCRIPT BE MADE OF THE CLOSED PROCEEDING. IN RULING ON THIS REQUEST, THE COURT SHALL CONSIDER THE FACTORS PRESCRIBED IN SUBSECTION B OF THIS SECTION. The person who requested the transcript shall pay the cost of the transcript. If the court grants a request for a transcript of any closed proceeding, the court shall redact from a transcript any information that:

1. Is essential to protect the privacy, well-being or safety interests prescribed in subsection B of this section.

2. Protects the identity and safety of a person who reports child abuse or neglect and ~~to protect~~ any other person if the court believes that disclosure of the CPS information would be likely to endanger the life or safety of any person.

3. The court has received that is confidential by law. The court shall maintain the confidentiality of the information as prescribed in the applicable law.

~~H.~~ I. Any person may request to inspect court records of a proceeding involving the disclosure of CPS information regarding a case of child abuse, abandonment or neglect that has resulted in a fatality or near fatality. In ruling on this request, the court shall consider the factors prescribed in subsection B of this section. If the court grants the request, the court shall redact any information subject to the requirements of subsections B and ~~G~~ H of this section and section 8-807, subsection F, paragraph 2.