

# ARIZONA LEGISLATIVE ACTION PACKET

## **PURPOSE: ADVOCATING CHANGE TO ARIZONA LAWS TO BETTER PROTECT CHILDREN AND FAMILIES FROM FRAUD AND ABUSE.**

Arizona offers four options for direct citizen legislative action. Arizonans can file initiatives, referendums, legislative measures, and request measures placed on ballot by Special Commission.

For our purposes, an initiative is most appropriate because its purpose is to create or change existing laws. Referendums are for repealing laws.

In Arizona, to change a law, regulation, or policy citizens must get 10% of the number of total voters in the last election to sign petition supporting the initiative going on the ballot for the next election. And, to change the Constitution of Arizona citizens must get 15% of the number of total voters in the last election to sign petition supporting the initiative.

Steps to take in changing Arizona's laws:

1. Download Arizona's Initiative, Referendum, and Recall Handbook from [http://www.azsos.gov/election/IRR/Initiative Referendum and Recall .pdf](http://www.azsos.gov/election/IRR/Initiative%20Referendum%20and%20Recall.pdf) or e-mail [info@heal-online.org](mailto:info@heal-online.org) with subject "Arizona's Initiative Handbook" and we will send you a copy. Follow the guidelines in the handbook and contact the Office of the Secretary of State for help.
2. You may wish to set up a Political Action Committee (PAC) in support of your initiative so you can publicize your campaign and gain additional support. For more information on this process, visit [http://www.azsos.gov/cfs/publications/campaign\\_contributions.pdf](http://www.azsos.gov/cfs/publications/campaign_contributions.pdf) or e-mail [info@heal-online.org](mailto:info@heal-online.org) with subject "Arizona's PAC Info" and we will send you a copy.

## **CHILDREN AND YOUTH'S BILL OF RIGHTS**

HEAL recommends that the following children and youth's bill of rights be enacted into law in all States:

1. No child shall be involuntarily placed in a secured, lockdown facility without due process of law. (US Constitution, 14<sup>th</sup> Amendment—law supported by Supreme Court Rulings in Bellotti v. Baird (1979) U.S. Supreme Court and Ingraham v. Wright (1977) U.S. Supreme Court)

2. No child shall be forced to act as Staff or perform the duties of an employee of any institution involuntarily. (US Constitution, 13<sup>th</sup> Amendment—law supported by Supreme Court Ruling in Tinker v. Des Moines Independent School District (1969) U.S. Supreme Court )
3. No child shall be forced to act as Staff or perform the duties of an employee of any institution without fair compensation (i.e. minimum wage). (US Constitution, 13<sup>th</sup> Amendment- law supported by Supreme Court Ruling in Tinker v. Des Moines Independent School District (1969) U.S. Supreme Court)

## **ARIZONA**

### **Statute of Limitations Suggested Revision(s)**

Arizona has no criminal Statute of Limitations in which to prosecute felonies including sexual assault/abuse of minors and capital offenses.

Arizona should revise Ariz. Rev. Stat. § 13-107 to include kidnapping and assault and battery resulting in serious injury among the list of offenses that are listed as having no Statute of Limitations.

Alaska provides one example of a State that includes kidnapping in the list of offenses that have no Statute of Limitations for prosecution. (Source: ALASKA STAT. § 12.10.010)

HEAL recommends Arizona revise Ariz. Rev. Stat. § 12-542 to extend the Statute of Limitations for child victims to file suit upon reaching age of majority. HEAL recommends child victims be given 20 years from time of injury or 15 years upon reaching age of majority to file a tort claim against the tortfeasor.

Alternatives to the above extension of time to file a claim for injured minors include judicial system providing accessible and competent attorneys required to represent minors on a contingency basis with no fees due unless case is won and amount to be paid to attorney may not exceed 50% of the damages and 50% total must include all attorney fees and expenses.

### **Child Abuse Laws Suggested Revision(s)**

HEAL recommends Arizona revise its child abuse statutory definitions to include the following:

#### **Emotional Abuse**

**Citation: Ann. Stat. § 9:6-8.21 (New Jersey Statutory Definition)**

*Abused child or abused or neglected child* means a child under age 18 years who is in an institution, and:

- Has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being
- 
- Who has been willfully isolated from ordinary social contact under circumstances that indicate emotional or social deprivation

The definitions and laws pertaining to child abuse and/or endangering the welfare of a child in Arizona are found at

<http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/8/00533.htm&Title=8&DocType=ARS>. HEAL recommends Arizona's laws include the above definitions as applied under Arizona's Child Endangerment, Child Welfare, and/or Child Abuse laws.

In addition, HEAL recommends that the definition of Abandonment be added to Arizona's Child Endangerment Laws and defined as in the following Kansas Statute:

Kansas § 38-2202. Definitions. "As used in the revised Kansas code for care of children, unless the context otherwise indicates: "Abandon" or "abandonment" means to forsake, desert or, (a) without making appropriate provision for substitute care, cease providing care for the child."

HEAL recommends that "appropriate provision for substitute care" be limited to the least restrictive environment within the child's community of residence and/or within the State of Arizona if institutionalization is required.

### **\*\*Special Note: Unlicensed Facilities**

HEAL recommends that Arizona adopt the same code/law as Arkansas in regards to unlicensed facilities. Arkansas has the best law regarding unlicensed child care facilities.

#### **Arkansas' Ann. Code § 20-78-208. Unlicensed child care facility unlawful.**

**(a)** It shall be unlawful for any person, partnership, group, corporation, organization, or association to operate or assist in the operation of a child care facility which has not been licensed by the Division of Child Care and Early Childhood Education.

**(b)** It shall be unlawful for any person to falsify an application for licensure, to knowingly circumvent the authority of the Child Care Facility Licensing Act, 20-78-201 et seq., to knowingly violate the orders issued by the division, or to advertise the provision of child care which is not licensed or approved or exempt by the division.

(c) A violation of this section shall be a Class C misdemeanor.

### **Faith-Based Exemptions Suggested Revision(s)**

HEAL recommends Arizona adopt the language found in California Health and Safety Code § 1596.792, which requires licensure of faith-based/religious childcare providers unless they meet standard exemption requirements such as caring solely for their own family members. (Source: <http://www.childcarelaw.org/docs/ganda-licenseexempt.pdf> and <http://law.onecle.com/california/health/1596.792.html>. ) Arizona may be able to include this language in R9-20-107 and R9-20-108.

HEAL recommends that Arizona clearly defines Ministry so that charlatans cannot pose as ministries while hurting children, exploiting families, and defrauding parents. Merriam-Webster defines ministers as follows:

## **min·is·ter**

*noun* \ˈmi-nə-stər\

### **Definition of *MINISTER***

1

: [agent](#)

2

*a* : one officiating or assisting the officiant in church worship

*b* : a clergyman especially of a Protestant communion

(Source: <http://www.merriam-webster.com/dictionary/ministers?show=0&t=1361078281>)

And, Ministry is defined as:

### **Definition of *MINISTRY***

1

: [ministration](#)

2

: the office, duties, or functions of a [minister](#)

3

: the body of [ministers](#) of religion : [clergy](#)

(Source: <http://www.merriam-webster.com/dictionary/ministry>)

A ministry by standard definition does not include nor extend to operating for-profit residential treatment centers, group homes, nor unlicensed academic nor

behavioral health programs. It includes officiating in church worship. To extend the word ministry to cover all operations and facilities that claim faith-based/religious status sacrifices public welfare and safety and does so without a sound basis in reasoning. As shown, the State of California does not permit child-caring agencies exemption from licensure and regulation based on faith. Nor should any other State, including Arizona.

### **Educational Consultants/Referral Services Suggested Revision(s)**

HEAL recommends that Arizona establish professional guidelines and professional licensure standards and certification requirements for any individual engaging in a business of making referrals to any mental health or educational institution.

### **Teen/Youth Transport Services Suggested Revision(s)**

HEAL recommends that Arizona establish professional guidelines and professional licensure standards and certification requirements for any individual or business engaging in involuntary transport of youth for mental health, behavioral health, medical care, and/or educational purposes. HEAL recommends that anyone engaged in such a business at minimum be required to be licensed Emergency Medical Technicians (EMTs) with ambulance driver certification with special licensing/certification requirements for transport services taking children across state lines. HEAL recommends that only law enforcement personnel engaged in transporting adjudicated youth who have been court-ordered to a secured treatment facility be permitted to transport youth across state lines for such purposes and that private placements of youth be outlawed as we recommend all youth be recognized as having the right to due process when enrollment/placement violates a minor's civil liberty interests.

### **Seclusion and Restraint Suggested Revision(s)**

HEAL suggests Arizona amend State laws regarding seclusion and restraint of children to match Sen. Harkin's (D-IA) and Rep. Miller's (D-CA) Keeping All Students Safe Act of 2011 (S. 2020, H.R. 1381).

### **Reparative/Conversion Therapy Revision(s)**

HEAL suggests that Arizona enact a law similar to California's law banning reparative/conversion therapy on children and youth. HEAL believes the methods involved in reparative/conversion therapy are inhumane and harmful whether or not they are used to change sexual/sexual orientation behavior or any legal behavior or beliefs that may not align with those of families or service providers seeking to use coercive thought reform/conversion therapy techniques to change behavior. See

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201120120SB1172](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120SB1172) for more information.

### **Facilities and Occupational and Professional Licensure Database Revision(s)**

Arizona provides the most user-friendly searchable database on licensed facilities and the database includes inspection and complaint records. See <http://hsapps.azdhs.gov/ls/sod/SearchProv.aspx?type=BH>. HEAL finds Arizona's system adequate and acceptable in this regard.

HEAL recommends that Arizona create an all-encompassing online searchable database of all individuals that hold occupational or professional licenses in Arizona that allows for one-stop online verification to determine if an individual claiming occupational or professional licensure is properly licensed and in good-standing with the state. Utah provides the most user-friendly searchable database on licensed individuals and the database includes disciplinary records/actions. See <https://secure.utah.gov/llv/search/index.html>. HEAL recommends Arizona create a searchable database similar to that provided by the State of Utah.

HEAL recommends that Arizona either include educator/teacher license verification with the overall professional licensure verification recommended above or create a separate searchable database to verify educator qualifications similar to that provided by Michigan at <https://mdoe.state.mi.us/MOECS/PublicCredentialSearch.aspx>.

The above measures would help Arizona protect consumers from fraud and abuse by making such information easily accessible.

### **Contact HEAL for Assistance:**

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