



## **The Justice for Children Act**

S.B. 1473, Sponsored by Sen. Nancy Barto

### **SUMMARY**

Every 15 minutes, an infant is born substance-exposed and addicted to drugs. That means thousands of medically fragile newborns will enter the Arizona foster care system this year alone. Infants who suffer extreme abuse typically linger in foster care for years without the permanency of an established family, forever inhibiting their ability to become functional members of society. This bill will help return these children more quickly to their birth families first, and when that's not possible, make them available for adoption.

### **IMPORTANT BENEFITS**

SB1473 will make several critical updates to existing state statute, including:

- Require fair and consistent application of current law without eroding parental rights;
- Reduce the longevity of adoption cases without burdening our courts;
- Make better use of scarce public resources by as much as 75% in some cases;
- Provide necessary tools to expedite permanency and safety for severely abused infants and children;
- Recognize that each year a child spends in foster care, the odds of adoption are reduced by 25%.

### **KEY PROVISIONS**

#### **Expedited Family Search**

1473 requires the Department of Child Safety to work diligently to find and notify relatives as soon as an infant or child is taken into custody. Findings from the initial 30-day "due diligence" search must be shared with the court at the next regular hearing. The bill emphasizes placement of infants with relatives as a first priority, and foster families second. If an infant (0-3) has been living with a foster family for more than nine months, the foster family essentially becomes "kin" and DCS can determine that the best interest of the child is to stay with their foster family. This provision will expedite the kinship search in order to find biological family more quickly, hopefully minimizing the number of times a child is moved.

### **Extreme Abuse; Aggravating Circumstance**

Federal and state laws require the Department of Child Services to attempt to reunify infants and children who have been taken into state custody with their natural families. The right to parent is a fundamental constitutional right.

However, in extreme cases the state can make findings that reunification is not in the child's best interest, and the state may move to sever parental rights. These extreme circumstances, called "aggravating circumstances," include abandonment, repeat sexual abuse, or repeat physical assault. The legislation adds in-utero drug-exposure, coupled with chronic drug abuse and reasonable grounds to believe the condition will continue indefinitely, to the aggravating circumstance definition. 1473 requires DCS to check for aggravating circumstances in each child welfare case, and if aggravating circumstances exist, DCS shall recommend that the court move toward severance, with a Judge making the final decision.

### **Protects Parents' Rights**

In accord with the Constitution, 1473 protects the fundamental liberty interests of parents. Parents have a substantive due process right in the care, custody, and control of their children. Child welfare cases do not simply go straight to severance. Regardless of the circumstances or criminal activity, if a child is taken into custody, the following due process steps must occur:

- Parents are entitled to a court-appointed attorney;
- The state must provide written and verbal notice to the parents;
- Parents must have an opportunity to be heard at the preliminary protective trial within 7 days;
- Parents are entitled to a mediation; and
- Parents are entitled to a trial and retain the right to appeal.

1473 makes no changes to these Constitutional rights or statutory procedures and respects a parent's fundamental rights to due process. The bill does, however, acknowledge that Arizona should act with the best interests of the child in mind – not protect negligent parents at further risk to the child.